



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 11]

नई दिल्ली, मार्च 8—मार्च 14, 2015, शनिवार/फाल्गुन 17—फाल्गुन 23, 1936

No. 11]

NEW DELHI, MARCH 8—MARCH 14, 2015, SATURDAY/PHALGUNA 17—PHALGUNA 23, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 5 मार्च, 2015

का.आ. 481.—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों, अर्थात्—

क—(i) विधि विरुद्ध क्रियाकलाप (निवारण) संशोधन अधिनियम, 2008 (2008 का अधिनियम सं० 35)

(ii) विधि विरुद्ध क्रियाकलाप (निवारण) संशोधन अधिनियम, 2012 (2013 का अधिनियम सं० 03) के तहत दंडनीय अपराधों तथा

ख—उपर्युक्त अपराधों में किए गए प्रयासों, दुष्प्रवृत्तियों और षडयंत्रों तथा उसी संव्यवहार में किए गए अथवा उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध या अपराधों की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना को विनिर्दिष्ट करती है।

[फा० सं० 228/64/2014-एवीडी-II]

सुशील कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 5th March, 2015

S.O. 481.—In exercise of the powers conferred by section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offences to be investigated by the Delhi Special Police Establishment namely:—

(a) Offences punishable under:—

(i) The Unlawful Activities (Prevention) Amendment Act, 2008 (Act No. 35 of 2008)

(ii) The Unlawful Activities (Prevention) Amendment Act, 2012 (Act No. 3 of 2013) and

(b) Attempts, abetments and conspiracies in relation to or in connection with the above mentioned offences and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F.No. 228/64/2014-AVD-II]

SUSHEEL KUMAR, Under Secy.

नई दिल्ली, 5 मार्च, 2015

New Delhi, the 5th March, 2015

का.आ. 482.—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना (के०अ० ब्यूरो) की ओर से मामला सं० आर०सी० 02 (ए)/2006/एसीयू- IX/नई दिल्ली (नेवल वार रूम लीक केस) तथा आरसी-04(ए)/2006/एसीयू-IX/ नई दिल्ली (ऑफ शूट केस) एवं माननीय दिल्ली उच्च न्यायालय में अपीलें/पुनरीक्षणों या उनसे सम्बद्ध अन्य मामलों तथा इसके अनुषंगिक मामलों के संचालन के लिए श्री राजीव मोहन, अधिवक्ता को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा०सं 225/65/2014-एवीडी-II]
सुशील कुमार, अवर सचिव

S.O. 482.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Rajiv Mohan, Advocate as Special Public Prosecutor for conducting trial cases RC. 02(A)/2006/ACU-IX/New Delhi (Naval War Room Leak Case) and RC. 04(A)/2006/ACU-IX/New Delhi (Off Shoot case) before the Trial Court at Delhi on behalf of (CBI) Delhi Special Police Establishment and appeals/revisions or other matters connected therewith and incidental thereto in the Hon'ble Delhi High Court, New Delhi.

[F.No. 225/65/2014-AVD-II]
SUSHEEL KUMAR, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 12 जनवरी, 2015

का.आ. 483.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गये हैं।

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	स्थापित तिथि	भारतीय मानक (कों) जो कि रद्द होने हैं, अगर हैं, की संख्या वर्ष और शीर्षक	रद्द होने की तिथि
(1)	(2)	(3)	(4)	(5)
1	आई एस 1783 (भाग 1): 2014 (चौथा पुनरीक्षण)	12 जनवरी 2015	आई एस 1783 (भाग 1): 1993 (तीसरा पुनरीक्षण)	12 अप्रैल 2015
2	आई एस 2113: 2014 (तीसरा पुनरीक्षण)	12 जनवरी 2015	आई एस 2113: 2002 (दूसरा पुनरीक्षण)	12 अप्रैल 2015
3	आई एस 4572: 2014/आई एस ओ 1140:2012 (चौथा पुनरीक्षण)	12 जनवरी 2015	आई एस 4572: 1992 (तीसरा पुनरीक्षण)	12 अप्रैल 2015
4	आई एस 13334 (भाग 2): 2014 (पहला पुनरीक्षण)	12 जनवरी 2015	आई एस 13334: (भाग 2): 1992	12 जुलाई 2015
5	आई एस/आई एस ओ 15197: 2013 (पहला पुनरीक्षण)	12 जनवरी 2015	आई एस/आई एस ओ 15197: 2003	12 जनवरी 2015

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली 110 002 क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकत्ता, चण्डीगढ़, चेन्नई, मुम्बई, तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, नागपुर, पटना, पूणे तथा कोचि में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ: पीयूबी/एसटीडी-2:1]

प्रभाकर राय, निदेशक (विदेशी भाषा एवं प्रकाशन)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 12th January, 2015

S.O. 483.—In pursuance of clause (b) of Sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the second column of Schedule hereto annexed has been established on the date indicated against it in third column. The particulars of the standards, if any, which are given in the fourth column shall also remain in force concurrently till they are cancelled on the date indicated against them in the fifth column.

SCHEDULE

Sl.No.	No. & Year of the Indian Standards Established	Date of Establishment	No. & Year of the Indian Standards to be cancelled, if any	Date of cancellation
(1)	(2)	(3)	(4)	(5)
1.	IS 1783 (Part 1): 2014 Drums Large, Fixed Ends-Specification Part 1 Grade A Drums (Fourth Revision)	12 January 2015	IS 1783 (Part 1): 1993 (Third Revision)	12 April 2015
2.	IS 2113: 2014 Assaying Silver in Silver and Silver Alloys-Methods (Third Revision)	12 January 2015	IS 2113: 2002 (Second Revision)	12 April 2015
3.	IS 4572: 2014/ISO 1140: 2012 Fibre Ropes-Polyamide-3-4-8 and 12-Strand Ropes (Fourth Revision)	12 January 2015	IS 4572: 1992 (Third Revision)	12 April 2015
4.	S 13334 (Part 2): 2014 Skimmed Milk Powder-Specification Part 2 Extra Grade (First Revision)	12 January 2015	IS 13334 (Part 2): 1992	12 July 2015
5.	IS/ISO 15197: 2013 In Vitro Diagnostic Test System-Requirements for Blood-Glucose Monitoring System for Self-Testing in Managing Diabetes Mellitus (First Revision)	12 January 2015	IS/ISO 15197: 2003	12 January 2015

Copies of these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi- 110 002 and Regional Offices: Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Nagpur, Patna, Pune, Kochi.

[Ref. PUB/STD-2:1]

PRABHAKAR RAI, Director (Foreign Languages & Publication)

नई दिल्ली, 15 मार्च, 2015

का.आ. 484.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद् द्वारा अधिसूचित करता है कि निचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं।

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	कॉलम (3) के संशोधन की प्रतिस्थापन तिथि	कॉलम (3) में दर्शाये गए अनुसार वह जिस तिथि तक मानक बिना संशोधन के था लागू रहेगी
1	आई एस 745 : 2003	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
2	आई एस 747 : 1991 दूसरा पुनरीक्षण	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
3	आई एस 854 : 1991	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
4	आई एस 860 : 1987 पहला पुनरीक्षण	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
5	आई एस 1014 : 1956	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
6	आई एस 2190 : 2010 चौथा पुनरीक्षण	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
7	आई एस 2867 : 1964	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
8	आई एस 2868 : 1964	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
9	आई एस 2869 : 1964	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
10	आई एस 3245 : 1965	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
11	आई एस 3246 : 1976 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
12	आई एस 3247 : 1976 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
13	आई एस 3248 : 1993 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
14	आई एस 3500 : 1996	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
15	आई एस 3501 : 1966	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
16	आई एस 3547 : 1976 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	कॉलम (3) के संशोधन की प्रतिस्थापन तिथि	कॉलम (3) में दर्शाये गए अनुसार वह जिस तिथि तक मानक बिना संशोधन के था लागू रहेगी
17	आई एस 3880 : 1976 पहला पुनरीक्षण	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
18	आई एस 3881 : 1993 पहला पुनरीक्षण	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
19	आई एस 3882 : 1966	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
20	आई एस 3883 : 1993 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
21	आई एस 3884 : 1993 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
22	आई एस 4624 : 1978 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
23	आई एस 4625 : 1968	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
24	आई एस 4626 : 1978 (पहला पुनरीक्षण)	संशोधन संख्या 4 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
25	आई एस 4627 : 1968	संशोधन संख्या 4 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
26	आई एस 4628 : 1978 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
27	आई एस 4935 : 1968	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
28	आई एस 4936 : 1968	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
29	आई एस 5339 : 2004 (दूसरा पुनरीक्षण)	संशोधन संख्या 1 जनवरी 2015	15 मार्च 2015	15 मार्च 2015
30	आई एस 5383 : 2006 (दूसरा पुनरीक्षण)	संशोधन संख्या 1 जनवरी 2015	15 मार्च 2015	15 मार्च 2015
31	आई एस 5800 : 2003 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
32	आई एस 5861 : 1993 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
33	आई एस 6356 : 2001 (तीसरा पुनरीक्षण)	संशोधन संख्या 1 नवम्बर 2014	15 मार्च 2015	15 मार्च 2015

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	कॉलम (3) के संशोधन की प्रतिस्थापन तिथि	कॉलम (3) में दर्शाये गए अनुसार वह जिस तिथि तक मानक बिना संशोधन के था लागू रहेगी
34	आई एस 6608 : 2004 (दूसरा पुनरीक्षण)	संशोधन संख्या 1 जनवरी 2015	15 मार्च 2015	15 मार्च 2015
35	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
36	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
37	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
38	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
39	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
40	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
41	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
42	आई एस 7032 (भाग 1 से 8): 1986 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
43	आई एस 7732 : 2003 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
44	आई एस 7749 : 1975	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
45	आई एस 8713 : 2003 (पहला पुनरीक्षण)	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
46	आई एस 8786 : 1978	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
47	आई एस 9245 : 1994 (पहला पुनरीक्षण)	संशोधन संख्या 4 जनवरी 2015	15 मार्च 2015	15 मार्च 2015
48	आई एस 9339 : 1988 (पहला पुनरीक्षण)	संशोधन संख्या 5 जनवरी 2015	15 मार्च 2015	15 मार्च 2015
49	आई एस 9789 : 1981 (पहला पुनरीक्षण)	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
50	आई एस 9790 : 1981	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	कॉलम (3) के संशोधन की प्रतिस्थापन तिथि	कॉलम (3) में दर्शाये गए अनुसार वह जिस तिथि तक मानक बिना संशोधन के था लागू रहेगी
51	आई एस 9791 : 1981	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
52	आई एस 9811 : 1981	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
53	आई एस 9812 : 1981	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
54	आई एस 9822 : 1981	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
55	आई एस 9823 : 1981	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
56	आई एस 10252 : 1982	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
57	आई एस 10253 : 1982	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
58	आई एस 10999 : 1999 (पहला पुनरीक्षण)	संशोधन संख्या 2 जनवरी, 2015	15 मार्च 2015	15 मार्च 2015
59	आई एस 13369 : 1992	संशोधन संख्या 3 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
60	आई एस 14266 : 1995	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
61	आई एस 14267 (भाग 1): 1995	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
62	आई एस 14267 (भाग 2): 1995	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
63	आई एस 14267 (भाग 3): 1995	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
64	आई एस 14267 (भाग 4): 1995	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
65	आई एस 14665 (भाग 4/ अनुभाग 6): 2001	संशोधन संख्या 6 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
66	आई एस 14665 (भाग 4/ अनुभाग 7): 2001	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
67	आई एस 14703 : 1999	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	कॉलम (3) के संशोधन की प्रतिस्थापन तिथि	कॉलम (3) में दर्शाये गए अनुसार वह जिस तिथि तक मानक बिना संशोधन के था लागू रहेगी
68	आई एस 15088 : 2001	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
69	आई एस 15089 : 2002	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
70	आई एस 15095 : 2002	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
71	आई एस 15153 : 2002	संशोधन संख्या 1 नवंबर 2014	15 मार्च 2015	15 मार्च 2015
72	आई एस 15273 : 2003	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
73	आई एस 15549 : 2005	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
74	आई एस 15608 : 2005	संशोधन संख्या 1 अक्टूबर 2014	15 मार्च 2015	15 मार्च 2015
75	आई एस 15688 : 2006	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
76	आई एस 15689 : 2006	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
77	आई एस 15690 : 2006	संशोधन संख्या 1 दिसंबर 2014	15 जनवरी 2015	15 मार्च 2015
78	आई एस 15698 : 2006	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
79	आई एस 15796 : 2008	संशोधन संख्या 2 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
80	आई एस 16018 : 2012	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015
81	आई एस 16103 (भाग 1) : 2012	संशोधन संख्या 1 दिसंबर 2014	15 मार्च 2015	15 मार्च 2015

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली 110 002

क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकता, चण्डीगढ़, चेन्नई, मुम्बई, तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, पटना, पुणे तथा कोच्चि में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ: पीयूबी/जीएन-1:2]

प्रभाकर राय, निदेशक (विदेशी भाषा एवं प्रकाशन)

New Delhi, the 15th March, 2015

S.O. 484.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date of Establishment of the Amendment at column (3)	Date till which the Standard without amendment as mentioned at Column (3) shall remain in force
(1)	(2)	(3)	(4)	(5)
1	IS 745: 2003 Textiles-Handloom Cotton Bedsheets-Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
2	IS 747: 1991 Handloom Cotton Bunting Cloth, Dyed-Specification (Second Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
3	IS 854: 1991 Handloom Cotton Turkish, Honey-comb and Huckaback Towels and Towelling Cloth-Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
4	IS 860: 1987 Specification for Handloom Cotton Sponge Cloth, Grey, Striped or Checked (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
5	IS 1014: 1956 Specification for Bone-Meal, Steamed	Amendment No. 1 December 2014	15 March 2015	15 March 2015
6	IS 2190: 2010 Selection, Installation and Maintenance of First-Aid Fire Extinguishers - Code of Practice (Fourth Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
7	IS 2867: 1964 Specification of Canned Mangoes	Amendment No. 3 December 2014	15 March 2015	15 March 2015
8	IS 2868: 1964 Specification of Canned Pineapples	Amendment No. 3 December 2014	15 March 2015	15 March 2015
9	IS 2869: 1964 Specification for Canned Orange Segments	Amendment No. 3 December, 2014	15 March 2015	15 March 2015

(1)	(2)	(3)	(4)	(5)
10	IS 3245: 1965 Specification of Canned Peas	Amendment No. 3 December, 2014	15 March 2015	15 March 2015
11	IS 3246: 1976 Specification for Canned Okra (Bhindi) (First Revision)	Amendment No. 2 December 2014	15 March 2015	15 March 2015
12	IS 3247: 1976 Specification for Canned Bitter Gourd (Kerala) (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
13	IS 3248: 1993 Canned Tomatoes-Specification (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
14	IS 3500: 1966 Specification for Mango Chutney	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
15	IS 3501: 1966 Specification for Pickles	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
16	IS 3547: 1976 Specification for Mango Nectar (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
17	IS 3880: 1976 Specification for Canned Mango Pulp (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
18	IS 3881: 1993 Tomato Juice - Specification (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
19	IS 3882: 1966 Specification for Tomato Ketchup	Amendment No. 3 December, 2014	15 March 2015	15 March 2015
20	IS 3883: 1993 Canned Tomato Concentrate Tomato Puree - Specification	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
21	IS 3884: 1993 Canned Tomato Concentrate - Tomato Paste - Specification (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
22	IS 4624: 1978 Specification for Dehydrated Peas (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
23	IS 4625: 1968 Specification for Dehydrated Carrots	Amendment No. 3 December, 2014	15 March 2015	15 March 2015

(1)	(2)	(3)	(4)	(5)
24	IS 4626: 1978 Specification for Dehydrated Potatoes (First Revision)	Amendment No. 4 December, 2014	15 March 2015	15 March 2015
25	IS 4627: 1968 Specification for Dehydrated Cabbage	Amendment No. 4 December, 2014	15 March 2015	15 March 2015
26	IS 4628: 1978 Specification for Dehydrated Okra (Bhindi) (First Revision)	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
27	IS 4935: 1968 Specification for Synthetic Syrups	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
28	IS 4936: 1968 Specification for Fruit Squashes	Amendment No. 2 December, 2014	15 March 2015	15 March 2015
29	IS 5339 : 2004 Skin Powder for Infants - Specification (Second Revision)	Amendment No. 1 January 2015	15 March 2015	15 March 2015
30	IS 5383 : 2006 Tooth Powder - Specification (Second Revision)	Amendment No. 1 January 2015	15 March 2015	15 March 2015
31	IS 5800 : 2003 Orange Juice Preserved Exclusively by Physical Means - Specification (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
32	IS 5861 : 1993 Jams, Jellies and Marmalades - Specification (First Revision)	Amendment No. 2 December 2014	15 March 2015	15 March 2015
33	IS 6356 : 2001 Toothpaste - Specification (Third Revision)	Amendment No. 1 November 2014	15 March 2015	15 March 2015
34	IS 6608 : 2004 Skin Creams - Specification (Second Revision)	Amendment No. 1 January 2015	15 March 2015	15 March 2015
35	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 1 General (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
36	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 2 Reed Length (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
37	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 3 Root Content (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015

(1)	(2)	(3)	(4)	(5)
38	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 4 Defects (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
39	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 5 Foreign Matter (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
40	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 6 Bulk Density (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
41	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 3 Bundle Strength (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
42	IS 7032 (Parts 1 to 8) : 1986 Physical Methods of Test for Uncut Indian Jute, Mesta and Bimli Part 8 Fineness (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
43	IS 7732 : 2003 Apple Juice Preserved Exclusively By Physical Means - Specification (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March
44	IS 7749 : 1975 Specification for Walnuts	Amendment No. 1 December 2014	15 March 2015	15 March 2015
45	IS 8713 : 2003 Mango Juice Preserved Exclusively By Physical Means - Specification (First Revision)	Amendment No. 1 December 2014	15 March 2015	15 March 2015
46	IS 8786 : 1978 Sepcification for Okra (Bhindi) Canned in Tomato Sauce	Amendment No. 2 December 2014	15 March 2015	15 March 2015
47	IS 9245: 1994 Nail Polish (Nail Enamel) - Specification (First Revision)	Amendment No. 4 January 2015	15 March 2015	15 March 2015
48	IS 9339 : 1998 Specification for Pomades and Brilliantines (First Revision)	Amendment No. 5 January 2015	15 March 2015	15 March 2015
49	IS 9789 : 1981 Specification for Canned Apricot	Amendment No. 2 December 2014	15 March 2015	15 March 2015
50	IS 9790 : 1981 Specification for Canned French Beans	Amendment No. 2 December 2014	15 March 2015	15 March 2015
51	IS 9791 : 1981 Specification for Canned Tinda	Amendment No. 2 December 2010	15 March 2015	15 March 2015

(1)	(2)	(3)	(4)	(5)
52	IS 9811 : 1981 Specification for Canned Kundri	Amendment No. 2 December 2014	15 March 2015	15 March 2015
53	IS 9812 : 1981 Specification for Canned Spianch	Amendment No. 2 December 2014	15 March 2015	15 March 2015
54	IS 9822 : 1981 Specification for Canned Parwal	Amendment No. 2 December 2014	15 March 2015	15 March 2015
55	IS 9823 : 1981 Specification for Canned Potatoes	Amendment No. 2 December 2014	15 March 2015	15 March 2015
56	IS 10252 : 1982 Specification for Canned Carrot in Brine	Amendment No. 2 December 2014	15 March 2015	15 March 2015
57	IS 10253 : 1982 Specification for Canned Papaya in Syrup	Amendment No. 2 December 2014	15 March 2015	15 March 2015
58	IS 10999 : 1999 Kum Kum Powder - Specification (First Revision)	Amendment No. 2 January 2015	15 March 2015	15 March 2015
59	IS 13369 : 1992 Stationary Lead-Acid Batteries (with Tubular Positive Plats) in Monobloc Container - Specification	Amendment No. 3 December 2014	15 March 2015	15 March 2015
60	IS 14266 : 1995 Canned Msuhrooms - Sepcification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
61	IS 14267 (Part 1) : 1995 Quick Forzen Vegetables - Specification Part 1 Quick Frozen Peas	Amendment No. 1 December 2014	15 March 2015	15 March 2015
62	IS 14267 (Part 2) : 1995 Quick Frozen Vegetables - Specification Part 2 Quick Frozen Cauliflower	Amendment No. 1 December 2014	15 March 2015	15 March 2015
63	IS 14267 (Part 3) : 1995 Quick Frozen Vegetables - Specification Part 3 Quick Frozen Spinach	Amendment No. 1 December 2014	15 March 2015	15 March 2015
64	IS 14267 (Part 4) : 1995 Quick Forzen Vegetables - Specification Part 4 Quick Forzen Beans	Amendment No. 1 December 2014	15 March 2015	15 March 2015
65	IS 14665 (Part 4/Section 6) : 2001 Electric Traction Lifts PArt 4 Components Section 6 Lift Doors and Locking Devices and Context	Amendment No. 6 December 2014	15 March 2015	15 March 2015
66	IS 14665 (Part 4/Section 7): 2001 Electric Traction Lifts Part 4 Components Section 7 Lift Machines and Brakes	Amendment No. 2 December 2014	15 March 2015	15 March 2015
67	IS 4703 : 1993 Vinegar - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015

(1)	(2)	(3)	(4)	(5)
68	IS 15088 : 2001 Lemon Juice Preserved Exclusively by Physical Means - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
69	IS 15089 : 2002 Pineapple Juice Preserved Exclusively By Physical Means - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
70	IS 15095 : 2002 Concentrated Pineapple Juice Preserved Exclusively By Physical Means - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
71	IS 15153 : 2002 Face Pack - Specification	Amendment No. 1 November 2014	15 March 2015	15 March 2015
72	IS 15273 : 2003 Concentrated Orange Juice Preserved Exclusively by Physical Means - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
73	IS 15549 : 2005 Stationary Valve Regulated Lead Acid Batteries - Specification	Amendment No. 1 December 2014	15 March 2015	29 March 2015
74	IS 15608 : 2005 Cream Bleach- Specification	Amendment No. 1 October 2104	15 March 2015	15 March 2015
75	IS 15688 : 2006 Canned Bamboo Shoot - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
76	IS 15689 : 2006 Bamboo Shoot in Brine - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
77	IS 15690 : 2006 Dry Salted Bamboo Shoot - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
78	IS 15698 : Dehydrated Bambool Shoots - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
79	IS 15796 : 2008 Automotive Vehicles) Horn-Installation - Requirements	Amendment No. 2 December 2014	15 March 2015	15 March 2015
80	IS 16018 : 2012 Wheeled Fire Extinguishers - Performance and Construction - Specification	Amendment No. 1 December 2014	15 March 2015	15 March 2015
81	IS 16013 (Part1) : 2012 LED Modules for General Lighting Pat 1 Safety Requirements	Amendment No. 1 December 2014	15 March 2015	15 March 2015

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolcatta, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Nagpur, Patna, Pune, Kochi. On line purchase of Indian standard can be made at : <http://www.standardsbis.in>.

[Ref: PUB/GN-1:2]

PRABHAKAR RAI, Director (Foreign Languages & Publications)

शहरी विकास मंत्रालय

नई दिल्ली, 27 फरवरी, 2015

का.आ. 485.—दिल्ली विकास अधिनियम, 1957 और इसके अंतर्गत बनाए गए नियमों की समीक्षा करने और पुनः प्रारूप बनाने, विकासकर्ता सहित सुविधा प्रदाता और विनियामक की परिवर्तित भूमिकाओं को निभाने के लिए वर्तमान संदर्भ में दिल्ली के शहरी विकास पर कारगर ढंग से और कुशलतापूर्वक ध्यान देने के लिए केन्द्र सरकार एतद्वारा निम्नलिखित संरचना के साथ एक समिति गठित करती है:—

- | | |
|--|---------|
| (i) श्री मधुकर गुप्ता, भा०प्र०से० (सेवानिवृत्त),
(पूर्व उपाध्यक्ष दि०वि०प्रा०) | अध्यक्ष |
| (ii) श्री एस०के० टंडन, (पूर्व सीएलए, दि०वि०प्रा०) | सदस्य |
| (iii) श्री शारदा प्रसाद, भा०प्र० से० (सेवानिवृत्त),
(पूर्व आयुक्त, भूमि निपटान, दि०वि०प्रा०) | सदस्य |
| (iv) श्री के०पी० लक्ष्मण राव, भा०ले० परीक्षा व
लेखा सेवा (सेवा-निवृत्त) (पूर्व वित्त सदस्य,
दि०वि०प्रा०) | सदस्य |
| (v) श्री ए०के० जैन, (पूर्व योजना, आयुक्त दि०वि०प्रा०) | सदस्य |

2. उपर्युक्त के अतिरिक्त निम्नलिखित पदेन हैसियत में इस समिति के सदस्य होंगे:

- (i) अपर सचिव शहरी विकास मंत्रालय
- (ii) संयुक्त सचिव (एलवाई) शहरी विकास मंत्रालय
- (iii) मुख्य नियोजक, नगर व ग्रामीण नियोजन संगठन
- (iv) सचिव, दिल्ली नगर कला आयोग
- (v) अध्यक्ष, नई दिल्ली नगर पालिका परिषद्
- (vi) नगर आयुक्त, दक्षिणी दिल्ली नगर निगम
- (vii) नगर आयुक्त, उत्तरी दिल्ली नगर निगम
- (viii) नगर आयुक्त, पूर्वी दिल्ली नगर निगम
- (ix) आयुक्त-सह-सचिव, दि०वि०प्रा०-सदस्य सचिव

3. अध्यक्ष किन्हीं अन्य दो सदस्यों को इस प्रक्रिया में उनकी सहायता करने के लिए सरकार से बाहर के व्यक्तियों को विशेषज्ञों के रूप में सह-योजित करने हेतु अधिकृत है।

4. यह समिति कार्यशालाओं अथवा जिस भी रूप में यह आवश्यक समझे, में दिल्ली विकास प्राधिकरण और अन्य हितधारकों के साथ विचार-विमर्श कर सकती है। यह शहरी नियोजन और विकास प्रक्रिया को सर्वोत्तम संभव पद्धति से आगे बढ़ाने के लिए दिल्ली विकास प्राधिकरण को समर्थ बनाने हेतु देश के भीतर अथवा विदेश में इसी प्रकार के संविधियों के सर्वोत्तम प्रावधानों/पद्धतियों पर भी विचार कर सकती है। यह समिति इसके गठन की तारीख से तीन महीनों के भीतर सरकार के विचारार्थ प्रारूप अधिनियम/नियम प्रस्तुत करेगी।

5. इस समिति के संबंध में भारत सरकार के सेवानिवृत्त अधिकारियों को अंतिम वेतन निकासी में से पेंशन को घटाकर प्राप्त शेष धनराशि की

दर से प्रारिश्मिक मिलेगा। इस कार्य के निष्पादन के लिए पारिश्मिक और परिवहन, कार्यशाला-सुविधा इत्यादि जैसी अन्य सुविधाओं की व्यवस्था/भुगतान दिल्ली विकास प्राधिकरण द्वारा किया जाएगा, जो इस प्रक्रिया के लिए एक सचिवालय का गठन करेगा और पर्याप्त संख्या में स्टाफ की तैनाती करेगा जैसा कि इस समिति द्वारा इसकी सहायता करने के लिए वांछित हो।

[फा० सं० के-11011/37/2014-डीडी II]

एस. बी. प्रसाद, अवर सचिव

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 27th February, 2015

S.O. 485.—In order to re-visit and re-draft the Delhi Development Act, 1957 and the rules made thereunder, to address the urban development of Delhi effectively and efficiently in the current context to play changing roles of facilitator and regulator along with developer, the Central Government hereby constitutes a Committee with the following composition:—

- | | |
|---|------------|
| (i) Shri Madhukar Gupta, IAS (Retd).
(Former Vice-Chairman, DDA) | - Chairman |
| (ii) Shri S. K Tandon,
(Former CLA, DDA) | - Member |
| (iii) Shri Sharda Prasad, IAS (Retd),
(Former Commissioner, Land
Disposal, DDA) | - Member |
| (iv) Shri K.P. Laxman Rao, IA&AS (Retd).
(Former Finance Member, DDA) | - Member |
| (vi) Shri A. K. Jain (Former Commissioner
of Planning DDA) | - Member |

2. Besides the above, the following will be members of the Committee in ex-officio capacity:—

- (i) Additional Secretary, Ministry of Urban Development
- (ii) Joint Secretary (L&E), Ministry of Urban Development
- (iii) Chief Planner, Town and Country Planning Organization
- (iv) Secretary, Delhi Urban Art Commission
- (v) Chairman, New Delhi Municipal Council
- (vi) Municipal Commissioner, South Delhi Municipal Corporation
- (vii) Municipal Commissioner, North Delhi Municipal Corporation
- (viii) Municipal Commissioner, East Delhi Municipal Corporation

(ix) Commissioner-cum-Secretary, DDA-Member Secretary

3. Chairman is authorized to co-opt any other two members as experts from outside the Government to assist him in carrying out the exercise.

4. The Committee may hold interactions with DDA and other stakeholders in workshops or whatever format it may consider necessary. It may also consider the best provisions/practices in similar statutes within the country or abroad for enabling DDA to carry out the urban planning and development exercise in the best possible way. The Committee shall submit the draft Act/Rules for consideration of the Government with three months from the date of its constitution.

5. The retired officials of the Government of India on the Committee will get remuneration at the rate of last pay drawn minus pension. The remuneration and other facilities like transport, workshop facilitation, etc., for carrying out this task will be organized/paid by DDA, which will constitute a Secretariat for this exercise and post adequate number of staff as may be desired by the Committee to assist it.

[F.No. K-11011/37/2014-DD II]

S. B. PRASAD, Under Secy.

नई दिल्ली, 5 मार्च, 2015

का.आ. 486.—दक्षिण दिल्ली नगर निगम द्वारा चुनाव के फलस्वरूप, एतद्वारा अधिसूचित किया जाता है कि श्री सतीश उपाध्याय, म्यूनिसिपल पार्षद, वार्ड सं० 161 दिल्ली विकास अधिनियम, 1957 (1957 का 61) की धारा (3) की उप धारा (3) के खंड (ड) के तहत तत्काल प्रभाव से दिल्ली विकास प्राधिकरण के सदस्य होंगे। वह 31 दिसम्बर, 2016 तक अथवा उस तिथि तक जब वो दक्षिण दिल्ली नगर निगम के पार्षद के पद को छोड़ते हैं, जो भी पहले हो प्राधिकरण के सदस्य होंगे।

[फा सं० के-11011/21/2004-डीडी1ए]

एस० बी० प्रसाद, अवर सचिव

New Delhi, the 5th March, 2015

S.O. 486.—Consequent upon election by South Delhi Municipal Corporation, it is hereby notified that Shri Satish Upadhyay, Municipal Councillor, Ward No. 161, will be a member of Delhi Development Authority under clause (e) of sub-section (3) of Section 3 of the Delhi Development Act, 1957 (61 of 1957) with immediate effect. He will be a member of the Authority upon 31st December, 2016 or until the date on which he ceases to be a Councillor of South Delhi Municipal Corporation, whichever is earlier.

[F.No. K-11011/21/2004-DD1A]

S.B. PRASAD, Under Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा प्रभाग)

नई दिल्ली, 12 मार्च, 2015

का.आ. 487.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987, 2007 तथा 2011) के नियम 10(04) के अनुसरण में मुख्य महाप्रबंधक, पंजाब परिमंडल के अंतर्गत, कार्यालय वरिष्ठ महाप्रबंधक (एन०डब्ल्यू०ओ०) सीएमटीएस, चण्डीगढ़, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से लागू होगी।

[सं० ई-11016/01/2015-राजभाषा]

सुरेश चन्द्र शर्मा, उप महानिदेशक (सीएण्ड ए०)

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Telecommunications)

(O. L. Unit)

New Delhi, the 12th March, 2015

S.O. 487.—In pursuance of rule 10(4) of the Official Languages (use for official purpose of the Union) Rules 1976 (as amended 1987, 2007 and 2011), the Central Government hereby notifies the Office of the Senior General Manager (N.W.O.) CMTS Chandigarh under the administrative control of Chief General Manager, Telecom Circle, Punjab, where more than 80% staff have acquired working knowledge of Hindi.

2. This notification shall come into force from the date of its publication in the Official Gazette.

[No.E-11016/1/2015-O.L.]

SURESH CHANDRA SHARMA, DDG (C.&A.)

नागर विमानन मंत्रालय

(एएआई अनुभाग)

नई दिल्ली, 5 मार्च, 2015

का.आ. 488.—भारतीय विमानपत्तन आर्थिक विनियामक प्राधिकरण अधिनियम, 2008 (2008 का 27) में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा श्री एस० मच्छेन्द्रनाथन, आईएएस (टीएन: 79) (सेवानिवृत्त) को उनके द्वारा कार्यग्रहण करने की तिथि से पांच (5) वर्ष की अवधि अथवा उनकी 65 वर्ष की आयु पूरी होने तक अथवा आगामी आदेशों तक, इनमें जो भी पहले हो, ₹ 80,000/- (नियत) के वेतन मान में भारतीय विमानपत्तन आर्थिक विनियामक प्राधिकरण के अधक्ष के रूप में नियुक्त करती है।

[सं० एवी० 24015/1/2014-एडी]

यू० के० भाटिया, अवर सचिव

MINISTRY OF CIVIL AVIATION**(AD Section)**

New Delhi, the 5th March, 2015

S.O. 488.—In exercise of the powers conferred by sub-section (2) of section 4 of the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008), the Central Government hereby appoints Sh. S. Machendranathan, IAS (TN. 79) (Retired) to the post of Chairperson, Airports Economic Regulatory Authority (AERA) in Pay Scale of Rs. 80,000/- (fixed) for a period of five (5) years from the date of assumption of charge or till he attains the age of 65 years or until further orders, whichever is the earliest.

[No. AV-24015/01/2014-AD]
U. K. BHATIA, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

शुद्धिपत्र

नई दिल्ली, 5 जनवरी, 2015

का.आ. 489.—केन्द्र सरकार द्वारा समय-समय पर यथा-संशोधित भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की प्रथम अनुसूची में उक्त अधिनियम की धारा 11 की उप-धारा (2) के अंतर्गत 'डॉक्टर ऑफ मेडिसिन (प्रसूति एवं स्त्री रोग)' अर्हता के लिए 'मराठवाड़ा विश्वविद्यालय/डॉ. बाबासाहेब अम्बेडकर मराठवाड़ा विश्वविद्यालय' के तहत 'एसआरटीआर मेडिकल कॉलेज, अंबाजोगई' में प्रशिक्षित छात्रों के लिए कॉलम (3) में पाठ्यक्रम को मान्यता प्रदान किए जाने के वर्ष को 'अप्रैल, 1993 में या उसके बाद' के बदले 'अप्रैल 1983 में या उसके बाद' के रूप में पढ़ा जाए।

[फा सं यू 12012/70/2006-एमईपी-II]
सुधीर कुमार, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE**(Department of Health & Family Welfare)****CORRIGENDUM**

New Delhi, the 5th January, 2015

S.O. 489.—In the First Schedule to the Indian Medical Council Act, 1956 (102 of 1956), as amended from time to time by the Central Government under sub-section (2) of section 11 of the said Act, for the qualification 'Doctor of Medicine (Obstetrics & Gynaecology)' for students trained at 'SRTR Medical College. Ambajogai' under the 'Marathwada University/Dr. Babasaheb Ambedkar Marathwada University' in the column (3), the year of recognition of the course may be read as 'on or after April, 1983' instead of 'on or after April, 1993'.

[F. No. U. 12012/70/2006-MEP-II]
SUDHIR KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 4 मार्च, 2015

का.आ. 490.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ पोस्ट्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अहिंसा एवं श्रम न्यायलय, चेन्नई के पंचाट (संदर्भ संख्या 28/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 03/03/2015 को प्राप्त हुआ था।

[सं एल 40012/88/2010-आईआर (डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 4th March, 2015

S.O. 490.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No.28/2011) of the Central Government Industrial Tribunal Cum Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Posts and their workman, which was received by the Central Government on 03/03/2015.

[No. L-40012/88/2010-IR (DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 25th February, 2015

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 28/2011

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Superintendent of Post Offices and Another and their workman]

BETWEEN

Sri S. Raja : 1st Party/Petitioner

AND

- | | |
|---|------------------------------|
| 1. The Superintendent of Post Offices Department of Posts, Dindigul Division Dindigul-624001 | 2nd Party/
1st Respondent |
| 2. The Senior Superintendent of Post Offices Deptt. of Posts, Kovilpatti Division (ADA) Kovilpatti-628501 | 2nd Party/2nd
Respondent |

Appearance:

For the 1st Party/Petitioner : M/s. R. Malaichamy,
Advocates

For the 2nd Party/1st and 2nd : Sri B. Sekar, CGSSC
Respondent

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-40012/88/2010-IR (DU) dated 28.03.2011 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of Senior Superintendent of Post Offices, Kovilpatty Division and Superintendent of Post Offices, Dindigul in terminating the services of their workman Sri S. Raja *w.e.f.* 28.02.2007 is legal and justified? What relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 28/2011 and issued notices to both sides. Both sides have entered appearance through their counsel and filed their Claim and Counter Statement respectively. The petitioner has filed rejoinder in reply to the Counter Statement filed by the Respondents.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner was appointed as Branch Post Master at Nellore Branch Post Office on 30.10.1995. The petitioner had been discharging his duties in a satisfactory manner. While so, the petitioner was placed under off-duty on 06.01.2005. Thereafter the petitioner was served with a Charge Sheet by the Second Respondent. It is alleged in the charge sheet that the petitioner did not credit a sum of Rs. 9,000/- purportedly to have been accepted from one Ponnathal for opening a 4-Year Time Deposit Account, to the account of the Post Office, though a receipt was given to the depositor. An enquiry was conducted against the petitioner on the charge and the Enquiry Officer found that the charge is proved. On the basis of the report of the Enquiry Officer the petitioner was removed from service by order dated 28.02.2007. The appeal preferred by the petitioner against the order was rejected by order dated 24.08.2008. The Enquiry Officer has committed error in entering a finding that the charge against the petitioner is proved. The petitioner has not committed any misconduct as alleged in the charge. An order may be passed directing the Respondents to reinstate the petitioner in service.

4. The Second Respondent has filed Counter Statement contending as follows :

The Counter Statement is filed on behalf of the First Respondent also. While the petitioner was working as Branch Post Master at Nellore Branch he had accepted Rs. 9,000/- on 01.08.2003 for opening a Time Deposit Account from one Ponnathal. He did not bring the deposit in the Post Office Accounts. He issued the foil portion of Pay-in-Slip Deposit Form duly signed and stamped by him to the depositor to make her believe that he has opened One Time Deposit Account in her name. A charge memo was issued against the petitioner under Rule-10 of GDS (Conduct and Employment) Rules, 2001. The petitioner denied the charge against him by his representation dated 09.07.2005. The Inspector of Posts, Kodaikanal Division was appointed as Enquiry Officer and an enquiry was conducted on the charge against the petitioner. On enquiry it was found that the charge levelled against the petitioner is proved beyond doubt. A copy of the report was served on the petitioner and the petitioner had submitted his representation on the enquiry report. On going through all the relevant documents the First Respondent had imposed the penalty of removal from service on the petitioner by order dated 28.02.2007. The appeal preferred by the petitioner against the said order was rejected. In the Written Statement given by the petitioner on 06.01.2005 he has admitted receipt of Rs. 9,000/- from Smt. Ponnathal and he had credited Rs. 9,620/- under classified receipt at Iyyampalayam Post Office on 06.01.2005. The petitioner is not entitled to any relief.

5. In the rejoinder the petitioner has denied the contentions in the Counter Statement and reiterated his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W3 and Ext.M1 to Ext.M12.

7. The points for consideration are:

- (i) Whether the action of the First Respondent in terminating the service of the petitioner *w.e.f.* 28.02.2007 is justified?
- (ii) What, if any is the relief to which the petitioner is entitled?

The Points

8. The petitioner who was working as Branch Post Master in Nellore Branch Office was removed from the service of the Postal Department by the First Respondent by order dated 28.02.2007. The petitioner had allegedly received Rs. 9,000/- from one Ponnathal for opening a One Time Deposit Account but had failed to credit the amount to the account of the Post Office. The depositor had preferred a complaint against the petitioner and a charge

memo was issued to the petitioner after a preliminary enquiry. An Enquiry Officer was appointed to enquire into the charge against the petitioner. The charge having been found proved the First Respondent had removed the petitioner from service.

9. Though the petitioner is challenging the report of the departmental enquiry against him in this dispute, he has not produced the documents required to adjudicate on the matter. None of the three documents produced by the petitioner pertain to the enquiry proceedings.

10. The Respondents have produced the enquiry report and also some other documents including the foil portion of the pay-in-slip for Rs. 9,000/- said to have been issued by the petitioner to Smt. Ponnathal on her making one time deposit with the petitioner who was working as the Post Master of the concerned Branch Post Office. The charge memo also is produced by the Respondents. On going through the report of enquiry it is seen that four witnesses were examined by the Management in the enquiry. Nine documents are seen marked also. However, the copies of documents except the copy of the pay-in-slip or the copies of the depositions are not produced. So there is constraint in adjudicating the matter.

11. The counsel for the petitioner has submitted a written argument referring to the documents produced in the enquiry proceedings and also the deposition of the witnesses. It is clear from this that all these material required for adjudication of the case are with the petitioner. In spite of that the petitioner has not produced them. In the absence of these documents it is difficult to probe into the veracity of the claims made by the petitioner through the written argument submitted on his behalf.

12. In spite of the above constraints, on going through the enquiry report I find that there was sufficient justification for the Enquiry Officer for entering a finding that the charge against the petitioner is proved. It is seen from the enquiry report that Ponnathal who had deposited Rs. 9,000/- as one time deposit was examined in the enquiry proceedings. The Enquiry Officer has referred to the pay-in-slip issued by the petitioner to Ponnathal examined as SW1 in his enquiry report. He has also referred to the statement made by the petitioner admitting that he had issued counterfoil of the pay-in-slip to the depositor with date stamp impression of Nellore Branch on 01.08.2003. SW3 seems to have deposed before the Enquiry Officer that the petitioner had given statement admitting that pay-in-slip was issued by him. It was on the basis of such evidence the Enquiry Officer has entered a finding against the petitioner. On going through the enquiry report I do not find any reason to differ from the finding arrived at by the Enquiry Officer.

13. It is a case where the petitioner, a responsible Government employee had committed the misconduct of

failing to credit the amount that was entrusted with him to the account and even trying to cheat the depositor by making her believe that the amount has been credited. The petitioner has failed in his duty and responsibility as a public servant. The punishment of removal from service awarded to him by the First Respondent commensurates with the gravity of the offence committed by him. So there is no necessity to interfere with the punishment imposed on the petitioner as well. The petitioner is not entitled to any relief.

14. In view of my discussion above, the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri, S. Raja

For the 2nd Party/1st & 2nd Management : None

Documents Marked On the petitioner's side

Ex. No.	Date	Description
Ex.W1	19.07.2005	Petition by C. Ramar with acknowledgement
Ex. W2	19.07.2005	Petition by C. Jayagopal with acknowledgement
Ex.W3	26.07.2005	Representation by the petitioner

On the Management's side

Ex.M1	—	Counter affidavit filed by the 2nd representation
Ex.M2	01.08.2003	Foil portion of pay in slip (SB-103) for Rs. 9,000/-
Ex.M3	29.06.2005	Supdt. of Post, Dindigul Divn. Memo No. F1/4/2004-05
Ex.M4	01.07.2005	Acknowledgement for the receipt of Charge Memo
Ex.M5	09.07.2005	Representation of the petitioner denying the charge
Ex.M6	23.11.2005	Inquiry Office Report
Ex.M7	01.02.2007	Representation of the petitioner for the Inquiry Officer report
Ex.M8	28.02.2007	Proceedings of Sr. Supdt. of POs, Kovilpatti Division in Memo No. F1/4/04-05
Ex.M9	29.02.2008	Proceedings of Director of Postal Services, O/o Postmaster

General, Southern Region,
Madurai-625002 in Memo No.
VIG/15-10/07-08

Ex.M10	11.11.2009	Withdrawal of OA 791/2008
Ex.M11	06.01.2005	Statement of the petitioner given before the Assistant Superintendent of Post Offices, Nilakottai Sub-Division
Ex.M12	06.01.2005	ACG 67 Receipt No. 38 of Iyyampalayam Sub-Post-Office for Rs. 9620.

नई दिल्ली, 9 मार्च, 2015

का.आ. 491.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हिंदुस्तान एरोनॉटिक्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 12/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं एल 42011/72/2008-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th March, 2015

S.O. 491.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No.12/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Hindustan Aeronautics Limited and their workmen, which was received by the Central Government on 09/03/2015.

[No. L- 42011/72/2008-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR,
Presiding Officer

I.D. No. 12/2009

Ref. No. L-42011/72/2008-IR(DU) dated 18.05 2009

BETWEEN

The President
Korva Safai Karmchhari Union
HAL Korva, Amethi
Sultanpur.

AND

The General Manager
Hindustan Aeronautics Limited
Korva, Amethi
Sultanpur —227412.

AWARD

1. By order No. L-42011/72/2008-IR(DU) dated 18.05.2009 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the President, Korva Safai Karmchhari Union, HAL Korva, Amethi, Sultanpur and the General Manager, Hindustan Aeronautics Limited, Korva, Amethi, Sultanpur for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

"Whether the demand of the Korva Safai Karmchhari Union that order made by The Deputy Chief Labour Commissioner (Central) on 27/07/2004 for payment of wages equal of the wages at the minimum of the scale of wages paid to regular unskilled workers of HAL, Korva and other benefits and service conditions should be implemented in full by the management of HAL, Korva, is legal and justified? If yes, what relief the workmen concerned are entitled to?"

3. The case of the workmen's union, in brief, is that the workmen under dispute are engaged as Safai Karmchhari with the Hindustan Aeronautics Limited. Korva through some contractor for the last 20-25 years. It is submitted by the workmen's union that at present said contract is with Shri Shambhu Nath Shukla and prior to him it was owned by some other various contractors from time to time. It has specifically been submitted by the union that the contractors kept on changing but the workmen did not change and they kept on working under different contractors; but various responsibilities in respect of them *i.e.* salary ESI, PF and uniform etc. were borne by the HAL. It is alleged by the union that the management of HAL adopted the practice of engagement through contractor just to deprive the workmen from the benefits available to other regular employees available in other units of HAL.

It is submitted by the union that the Labour Commissioner, UP *vide* their order dated 28.04 1989 has required that the employees engaged on contract with the HAL should be given same salary and benefits which are available to other unskilled employees, recruited directly by the HAL. The management preferred a writ against order dated 28.04.1989, which was rejected by Hon'ble High Court, Allahabad.

The SLP too was rejected; and accordingly, the management of HAL is paying all the contract labours at the rate of unskilled labours in their Lucknow unit. The union moved a writ before Hon'ble High Court, Lucknow Bench, Lucknow for payment at par with the unskilled labours who are engaged on contract at Lucknow unit and subsequently approached the Labour Commissioner as per directives of Hon'ble High Court. The Labour Commissioner, UP too directed for making payment and giving other benefits at par with other units of HAL to unskilled labours. It is submitted that on determination of appropriate government in respect of HAL is the Central Government the matter was taken up with Dy. Chief Labour Commissioner (Central) who *vide* their order dated 27.07.2004 directed that the worker engaged through contractor for cleaning work in HAL, Korva should be paid same wages as to the unskilled employees employed directly. The management of HAL preferred a writ before Hon'ble High Court, Lucknow Bench, Lucknow but Hon'ble High Court neither stayed the order dated 27.07.2004 of Dy. CLC (C) nor passed any interim orders. The union has also filed a writ before Hon'ble High Court to enforce the orders of Dy CLC (C) *w.e.f.* 01.02.2003 or from the date the workmen are engaged but in that writ too Hon'ble High Court has not passed any order. Accordingly the workmen's Union has prayed that the order of the Dy. CLC(C) be directed to be implemented in total.

4. The management of the HAL has denied the claim of the workmen's union by filing its written statement; wherein it has submitted that the workmen whose case is espoused by the union are not employees of HAL, Korva, which is only their principal employer; rather they are employees of a sanitation contractor and wages are being paid to them by the contractor being their employer. The said contractor is liable to make payment under PF Act, Gratuity Act and CLRA Act etc. It is specifically submitted by the management that the issue regarding implementation of order dated 27.07.2004 of the Dy. CLC(C) is sub-judice before Hon'ble High Court, Lucknow Bench, Lucknow then the same matter cannot be adjudicated by the lower court, particularly when the same is agitated by the union also. It is also submitted that the union itself has moved a writ with respect to order dated 27.07.2004, therefore, it cannot ask for its implementation. The management has also challenged the validity of the reference; and accordingly, has prayed that the claim of the workmen's union be rejected being devoid of merit.

5. The workmen's union has filed its rejoinder wherein it has reiterated the averments already made in the statement of claim.

6. The parties have filed documentary evidence in support of their respective claim. The union has examined Shri Jai Prakash; whereas the management has examined Shri Om Prakash Singh, Asstt. Engineer, Shri Dharam Pal,

Sr. Manager (HR), Shri A.K. Bajpai, Engineer (Civil) and Shri Pramod Kumar, Human Resource Officer in support of their respective claim. The parties availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments.

7. I have given my thoughtful consideration to the rival contentions of the authorized representatives of the parties and perused the entire evidence available on record in light thereto.

8. The authorized representative of the workman has argued that the Hon'ble High Court has neither stayed nor quashed the order dated 27.7.2004 of the Dy. CLC (C); hence, the same holds good and should be implemented and the workmen should be paid wages equal to the wages at the minimum of the scale of wages paid to the regular unskilled workers of HAL, Korva and other benefits. The union has relied upon:

(i) *Madan Kumar Singh vs. Distt. Magistrate, Sultanpur & another in Civil Appeal No. 5165 of 2009 decided on 07.08.2009.*

(ii) *M/s. Atma Ram Properties (P) Ltd. Vs. M/s. Federal Motors Pvt. Ltd. In Civil Appeal No. 7988 of 2004 decided on 10.12.2004.*

9. In rebuttal, the authorized representative of the management has contended that the reference order itself is bad in the eye of law as the conciliation officer submitting its report before appropriate Government for reference is subordinate to the Dy. CLC (C) who has passed the order dated 27.7.2004 and the same is sub-judice before Hon'ble High Court; hence the same cannot be referred for adjudication. It has also argued that since the order dated 27.7.2004 has been challenged by both the parties before Hon'ble High Court, Lucknow Bench, Lucknow, therefore, the issue of its implementation cannot be decided by the lower court.

10. On merits of the case, the workmen's union has come up with a case that since there is no stay or interim order has been passed by Hon'ble High Court, Lucknow Bench, Lucknow on the order dated 27.7.2004, therefore, the management is duty bound to implement the order dated 27.7.2004; and accordingly, they should be paid wages equal to the wages at the minimum of the scale of wages paid to the regular unskilled workers of HAL, Korva and other benefits.

11. Per contra, the management's sole contention is that the reference is bad in eye of law and the order dated 27.7.2004 being agitated by both the parties before Hon'ble High Court, cannot be taken up for implementation by this Tribunal.

12. The witnesses of the parties in their evidence have tried to corroborate their respective pleadings. Thus, the matter for consideration before this Tribunal, firstly, as

regards validity of the reference order and secondly, as to whether the order dated 27.7.2004 of the Dy. CLC (C) can be implemented when two writs are pending before Hon'ble High Court against said order.

13. The appropriate Government has referred the present industrial dispute for adjudication in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 to this Tribunal. Accordingly, this Tribunal has to give its answer to the reference made to it. This Tribunal cannot sit in appeal over the administrative order passed by the Central Government, referring the matter to the industrial tribunal for adjudication. Had the management had any grievance regarding admissibility or legality of the reference order then it was open for the management to move to the High Court to quash the present reference order or to get the proceedings stayed before this Tribunal. There is no iota of evidence to indicate that the management has even adopted any of the course either to get the reference order quashed or proceedings stayed before this Tribunal stayed. Therefore, this Tribunal has to proceed into the matter referred to it for adjudication.

14. Admittedly, both the parties have challenged the order dated 27.7.2004 of the CLC (C); whereby it has held the workmen entitled for wages equal to the wages at the minimum of the scale of wages paid to the regular unskilled workers of HAL, Korva and other benefits. The workmen's union has filed a writ petition No. 1213 (s/s) of 2005 before Hon'ble High Court, Lucknow Bench, Lucknow for amending the date of implementation of the order from an earlier date; whereas the management of HAL filed a writ petition No. 7347 of 2004 challenging the order dated 27.7.2004 with prayer to quash the order dated 27.7.2004/stay the implementation/execution of the order. Hon'ble did not pass any interim order on the above two writs. Moreover, Hon'ble High Court neither quashed the order dated 27.7.2004 nor stayed the implementation/execution of the order dated 27.7.2004. Hence, in view of the admitted facts and circumstances of the case, the order dated 27.7.2004 of the Dy. CLC (C) still holds good having all its impact upon the parties for the want of any stay from the Hon'ble High Court on the order dated 27.7.2004.

Further, neither there is any pleading in this regard nor any evidence has been moved by either parties that the proceedings before this Tribunal in the present industrial dispute has been stayed by the Hon'ble High Court or other appropriate forum.

15. Thus, from the facts and circumstances of the case and discussions made here in above, I am of considered opinion that the order passed by the Dy. CLC (C), the competent authority, on 27.7.2004 is legal and justified and binding on parties and the management of Hindustan

Aeronautics Limited, Korva is liable to make payment of wages equal to the wages at the minimum of the scale of wages paid to the regular unskilled workers of HAL, Korva and other benefits *w.e.f.* 01.02.2003.

16. The reference under adjudication is answered accordingly.

17. Award as above.

LUCKNOW RAKESH KUMAR, Presiding Officer
15th January, 2015.

नई दिल्ली, 9 मार्च, 2015

का.आ. 492.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गैरिसन इंजीनियर (यूटिलिटी), बठिंडा मिल स्टेशन, बठिंडा कैंट के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 चंडीगढ़ के पंचाट (संदर्भ संख्या 772/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं एल-13012/14/99-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th March, 2015

S.O. 492.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No.772/2005) of the *Central Government Industrial Tribunal-Cum-Labour Court No.II, Chandigarh* now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the *Garrison Engineer (Utility), Bathinda Mill Station, Bathinda Cantt.* and their workman, which was received by the Central Government on 09/03/2015.

[No.L-13012/14/99-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 772/2005

Registered on 5.9.2005

Sh. Mohan Singh, S/o Sh. Gurbachan Singh, Village Fatehpurgarhi, PO: Jhansla, Tehsil: Rajpura, Patiala.

Petitioner

Versus

1. The Garrison Engineer (Utility), Bathinda Mill Station, Bathinda Cantt.

Respondents

APPEARANCES

For the workman Sh. Kailash Sharma, Adv.

For the Management Sh. Harjeet Singh, Adv.

Award**Passed on 5.1.2015**

Central Government *vide* Notification No. L-13012/14/99/IR(DU) Dated 17.2.2000, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of MES in terminating the services of Sh. Mohan Singh, S/o Sh. Gurbachan Singh is legal and justified? If not, to what relief the concerned workman is entitled and from which date?"

In the statement of claim the workman pleaded that he was appointed as Switch Board Attendant *w.e.f.* 12.4.1983 on daily wage basis and his services were terminated *w.e.f.* January, 1987 without giving him any compensation or serving one month notice and termination of his services is in violation of Section 25F of the Act.

It is further pleaded that management terminated the services of about 70 daily wage employees including the workman *w.e.f.* January, 1987. They filed separate applications before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh in 1990 which were dismissed by the Tribunal *vide* order dated 19.8.1992. Some of the workmen filed SLPs before the Hon'ble Supreme Court and the order dated 19.8.1992 was set aside with the direction to the management to consider the case in accordance with the law laid down in State of Haryana Vs. Piara Singh. In pursuance of the said judgment of the Hon'ble Supreme Court, the management reinstated all the employees except the workman. Since the order of the Central Administrative Tribunal dated 2.9.1996 was set aside, the management was to reinstate the workman also.

Since the termination of the services of the workman is illegal and he is entitled to be reinstated on the ground of parity also and therefore, he be reinstated in service.

Management filed written reply admitting the appointment of the workman *w.e.f.* 12.4.1983 and termination of his services *w.e.f.* January, 1987, and further pleaded that the Office of the Assistant Garrison Engineer, Bathinda was a temporary establishment created for completing construction work and after the completion of the work the office was wound up and the services of the workman were terminated. It is further pleaded that workman was not party in the SLPs before the Hon'ble Supreme Court and as such his case was not considered. It is further pleaded that he did not complete 240 days in any calendar

year and he also did not fulfill other requisite qualifications and experience to continue in the service and as such, he is not entitled to be reinstated in service.

Parties were given opportunities to lead their evidence.

In support of its case, workman appeared in the witness box and filed his affidavit reiterating his case as set out in the claim petition.

On the other hand the management has examined Sh. Indal Prasad and Sh. Narinder Singh who 'filed their respective affidavits supporting the case of the respondent management as pleaded in the written statement and further deposed that the workman did not complete 240 days of service in any calendar year.

Narinder Singh has further deposed that workman worked for 42 days in 1982, 165 days in 1983, 111 days in 1984 and 99 days in 1985.

I have heard Sh. Kailash Sharma counsel for the workman and Sh. Harjeet Singh, counsel for the management and perused the file.

The workman has specifically pleaded in para 1 of the statement of claim that he was engaged on 12.4.1983 on daily wage basis and his services were terminated *w.e.f.* January, 1987. The respondent management did not controvert this fact in para 1 of the written statement and rather admitted the same and it is only pleaded in para 4 on merits that he did not complete 240 days in any calendar year. Since the management itself admit that the workman worked from 12.4.1983 to January, 1987, it is for the management to prove by leading cogent evidence that the workman did not complete 240 days in a calendar year prior to the termination of his services. Narinder Singh has deposed about the days the workman worked during the year 1982, 1983, 1984 and 1985 but he did not utter a single word about the days workman worked in the year 1986 and therefore it cannot be said that the workman did not complete 240 days in a calendar year preceding the termination of his services in January, 1987. Thus it is to be held that he completed 240 days of continuous service, prior to the termination of his services. No retrenchment compensation or notice was issued to him as specified under Section 25F of the Act, and as such, his termination is held to be illegal.

It is also not denied that services of the 70 employees including the workman were terminated in January, 1987. All of them filed OAs before the Central Administrative Tribunal which were dismissed by common order dated 19.8.1992. The workmen, but not the present workman, preferred SLP before the Hon'ble Supreme Court who set aside the order of the Central Administrative Tribunal with a direction to the management to consider the case in accordance with law laid down in State of Haryana Vs. Piara Singh *vide* order dated 2.9.1996. In pursuance of the

said order, the management reinstated the other employees. Since the order of the Central Administrative Tribunal was set aside, it was for the management to consider the case of the present workman also. But no step was taken by the management in this direction. It was contended that there is a delay in raising the industrial dispute which is sufficient to hold that claimant cannot claim any relief in the present reference. Suffice it to say that the Hon'ble Supreme Court passed the order in 1996 and thereafter the co-workers, who were admittedly similarly situated as the present workman, were reinstated. The workman raised the industrial dispute and the reference was received in the year 2000. Thus there is an inaction not on the part of the workman but on the part of the management and the workman initiated the proceedings without any inordinate delay.

Therefore on the ground of parity and the fact that termination of his services is not legal and he is entitled to be reinstated in service. Since he did not file SLP before the Hon'ble Supreme Court and only raised the present dispute, he cannot claim back wages for the period he remained out of service. Moreover there is nothing on the file to suggest that he did not remain gainfully employed during the period of his discontinuance of service and he himself is totally silent about this fact when appeared in the witness box. Thus he is to be reinstated in service but without back wages.

In result, it is held that termination of the services of workman is illegal and he is entitled to be reinstated in service but without back wages. The management is directed to reinstate him in service within 2 months from the publication of the award. The reference is accordingly answered in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 493.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड एंड ऑथर्स के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 चंडीगढ़ के पंचाट (संदर्भ संख्या 315/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं. एल-40012/83/2013-आईआर(डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th March, 2015

S.O. 493.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (*I.D. No. 315/2013*) of the Central Government Industrial Tribunal Cum Labour Court

No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the **Bharat Sanchar Nigam Limited & Others** and their workman, which was received by the Central Government on 09/03/2015.

[No. L-40012/83/2013-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 315/2013

Registered on 18.2.2014

1. Sh. Brij Pal, S/o Sh. Amir Chand, House No.8, Vivek Vihar, Part-2, Bapu Nagar, Dehradun.

Petitioner

Versus

1. The General Manager, BSNL, Patel Nagar, Dehradun.
2. M/s. Terrior Security, 42. Chakrata Road, Dehradun.

Respondents

APPEARANCES

For the workman Sh. Gobind Singh, A.R.

For the Management Ex parte.

AWARD

Passed on 30.1.2015

Central Government *vide* Notification No. L-40012/83/2013 [IR(DU)] Dated 21.1.2014, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of BSNL, Dehradun and M/s. Terrior Security in terminating the services of Sh. Brij Pal without complying with provisions of Section 25F, G and H of the ID Act is unjustified? If so, to what relief workman is entitled to?"

In response to the notice, workman submitted statement of claim pleading that he worked with Respondent No.1 as Security Guard through Vijayant Security in January, 2005. The contract with the said security remained up to December, 2006. The contract for security was given to Uttarakhand Security in 2007 and the name of the workman was entered in the muster roll of the said security service, where he worked up to December, 2009. Thereafter, the

contract for security was given to Terrior Security-Respondent No. 2 in January, 2010 and the name of the workman was entered with the said security. It is alleged that he was not paid minimum wages as well as wages in lieu of vacations/holidays and he raised the dispute with Respondent No. 1 and 2 for giving him proper wages. That his services were illegally terminated by Respondent No. 2 w.e.f. 1.8.2012. That he be got paid a sum of Rs.90,035/- as well as he be reinstated in service.

A letter dated 17.2.2014 was received from the Terrior Security-Respondent No. 2, wherein, it is mentioned that relief has been given to the workman by the Regional Labour Commissioner, Dehradun and similar facts have been stated in the letter dated 26.3.2014 of the respondent No.1. The said letter shows that respondent No.1 and 2 have notice about the proceedings. But they did not choose to come present to contest the claim of the workman and were proceeded against ex parte *vide* order dated 15.4.2014.

The workman led ex parte evidence and himself appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition to the effect that he worked with respondent No.2 as Security Guard from January, 2010 to 31.7.2012 and his services were terminated without serving him any notice. His statement remains un rebutted on the file showing that his services were terminated by respondent No.2 without paying him any retrenchment compensation or serving him any notice as required under Section 25F of the Act.

Perusal of the order passed by the Regional Labour Commissioner, Dehradun, the copies of which were sent by respondent No.1 and 2 along with their letters, shows that the workman was paid certain wages and the question of the termination of his services was not decided there. Therefore the said settlement has no effect on the proceedings of this case. Though, the workman has made several averments regarding less payment of wages, but the same is not to be decided in the present reference which is only regarding the termination of his services.

Since the services were terminated in violation of the provisions of Section 25F of the Act, and therefore, the same is illegal.

Now, the question is whether the workman be reinstated in service or be paid compensation. It may be added that respondent No.2 has been doing the work on contract with respondent No.1 and in the circumstances; the only remedy available is to pay compensation to the workman. According to the workman, he was getting pay of Rs.4200/- per month. Considering the facts and circumstances of the case, the workman is awarded Rs.2,00,000/- as compensation which he is entitled to recover from respondent No.2.

In result, it is held that the action of respondent No.2 i.e. M/s Terrior Security in terminating the services of the

workman is unjustified and he is entitled to recover Rs.2,00,000/- from respondent No.2 by way of compensation. However the workman has no claim against respondent No.1. The reference is answered accordingly in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 494.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ पोस्ट, लुधियाना के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 चंडीगढ़ के पंचाट (संदर्भ संख्या 215/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं एल-40012/87/2003-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th March, 2015

S.O. 494.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 215/2011) of the Central Government Industrial Tribunal-Cum-Labour Court No.II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Post, Ludhiana and their workman, which was received by the Central Government on 09/03/2015.

[No.L-40012/87/2003-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No.215/2011

Registered on 5.10.2011

Sh. Rajesh Kumar S/o Sh. Krishan Lal, H.No. 31, Narain Nagar, Basti Sheikh Road, Jalandhar.

Petitioner

Versus

The Senior Superintendent of Post Offices, Department of Post, Post Office, Ludhiana.

Respondents

APPEARANCES

For the workman

Ex parte.

For the Management

Sh. Vikram Bajaj, Adv.

AWARD

Passed on 12.1.2015

Central Government vide Notification No. L-40012/87/2003-IR(DU) Dated 19.9.2011, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Postal Department in terminating the services of Sh. Rajesh Kumar S/o Sh. Krishan Lal, Ex-Stamp Vendor w.e.f. 17/9/2002 without any notice and without any payment of retrenchment compensation is legal and justified? What relief the workman is entitled to and from which date?"

In response to the notice, the workman appeared through counsel but neither the workman nor his counsel appeared on 19.12.2014 and he was ordered to be proceeded against ex parte. Thus, the workman did not file any statement of claim challenging the termination order passed by the management and therefore, it cannot be said that the action of the management in terminating his services with effect from 17.9.2002 is illegal and unjustified. Therefore, the reference is answered against the workman and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 4 मार्च, 2015

का.आ. 495.—राष्ट्रपति, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के रिक्त पद हेतु लिंक अधिकारी के रूप में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, बेंगलूर के पीठासीन अधिकारी श्री एस एन नवलगुण्ड को छः माह की अवधि तक अथवा नियमित पदधारण की नियुक्ति होने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो तब तक के लिए अतिरिक्त कार्यभार सौंपते हैं।

[सं ए-11016/03/2009-सीएलएस-II]
एस के सिंह, अवर सचिव

New Delhi, the 4th March, 2015

S.O. 495.—The President is pleased to entrust the additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad to Shri S. N. Navalgund Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Bangalore for a period of six months or till the post is filled on regular basis or until further orders, whichever is the earliest.

[No. A-11016/03/2009-CLS-II]

S.K. SINGH, Under Secy.

नई दिल्ली, 9 मार्च, 2015

का.आ. 496.—औद्योगिक विवाद अधिनियम, 1947 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकत्ता के पंचाट (संदर्भ संख्या 41/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2015 प्राप्त हुआ था।

[सं एल-12011/23/2000-आईआर (बी.1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 41/2000**) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata* as shown in the Annexure, in the industrial dispute between the management of **Bharatiya Reserve Bank** and their workmen, received by the Central Government on 09/03/2015.

[No. L-12011/23/2000-IR(B-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA****Reference No. 41 of 2000**

Parties: Employers in relation to the management of Bharatiya Reserve Bank Note Mudran Ltd., Midnapore (W.B.)

AND

Their Workmen

Present: Justice Dipak Saha Ray,
....Presiding Officer

Appearance:

On behalf of the management : Mr. M.R.
Sarbadhikari, Ld.
Counsel.

On behalf of the workmen : Mr. D.C. Roy, Ld.
Counsel with Mr. B.
Mukherjee, Id.
Counsel and Mr. S.K.
Ghosh, Ld. Counsel.

State: West Bengal.

Industry: Banking.

Dated: 19th February, 2015.

AWARD

By Order No.L-12011/23/2000/1R(B-I) dated 29.09.2000
Government of India, Ministry of Labour in exercise of its

powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Bharatiya Reserve Bank Note Mudran Limited, Salboni, Distt. Midnapore (W.B.) in not classifying the job of industrial workers employed in 5 different grades and 5 different pay scales and not paying them the equal pay for equal work is justified. if not, to what relief the concerned workmen are not entitled?"

2. Bereft of all unnecessary details, the case of the union is as follows:

Bharatiya Reserve Bank Note Mudran Limited (B.R.B.N.M. Ltd. in short), after observing all formalities viz. Publishing advertisement, conducting interview of the candidates etc. recruited industrial workmen in four different Grades (i.e., Grade-I to Grade-IV) in four different pay scales. But after introduction of modern technology, the workmen of all the grades were compelled to do the same work as the jobs of the workmen were not classified; as a result the workmen of all the grades have to do equal work against different pay scales. The matter was brought to the notice of the management but the management did not pay any heed to it. Accordingly, an industrial dispute was raised which was ultimately referred to the Tribunal for adjudication.

3. The management/B.R.B.N.M. Ltd. has contested the case by filing written statement and thereby denied all the contentions made in the statement of claim filed by the union. It is the specific case of the management that as per the Certified Standing Orders of the Company which is binding upon all the industrial workmen, the employee will be assigned any kind or type of work in any department or section of the Company. It is also contended that as per the terms of appointment each employee is required to perform the duty so allocated to him/her without any demure. According to the management the production process of the Company is inter-woven and any segmental approach in going for water-tight job classification will lead to stoppage of work in different areas affecting the total process. The management accordingly prays that the instant reference may be answered in the negative.

4. The union in order to prove its case has examined four witnesses and proved some documents. The management has not examined any witness in support of its case.

5. It has been argued on behalf of the union that initially the industrial workmen were recruited in four different grades against different pay scales. But after introduction of modern technology, the workmen of all the grades are compelled to do the same work as the jobs of the workmen were not classified and accordingly the workmen of all the grades are to do equal/same work against different pay

scales. So the workmen are being deprived from getting benefits of the doctrine of "Equal pay for equal work".

6. During argument, Ld. Counsel for the union, in support of the case, has produced the following photo copy of the decisions:

1. AIR 1999 SC 1734;
2. AIR 1975 SC 2238;
3. AIR 1998 SC 2979;
4. Supreme Court Civil Appeal No. 11821 of 1996;
5. AIR 1987 SC 2049;
6. AIR 1998 SC 1504;
7. AIR 2008 SC 1028;
8. Supreme Court Writ Petition No. 4676 of 1998;
9. Supreme Court Civil Appeal No. 4106 of 2004 and
10. High Court of Madras Writ Petition No. 7872 of 1991.

7. On the other hand it is contended on behalf of the management that the management published advertisement for recruiting the industrial workmen in four different grades. The requisite qualification and experience for different grades were different from one another. After receiving applications from the candidates, suitable candidates were selected and were recruited after observing all formalities. Appointment letters were accordingly issued. It is also contended on behalf of the management that the process of production process of the Company is inter-woven and any segmental approach in going for water-tight job classification will lead to stoppage of work in different areas which will affect the total process. Accordingly in case of emergency, i.e., during shortage of workmen, available workmen of any grade are asked to do the job meant for other grade in order to keep the production process active and keeping the said matter in mind, appointment letters were issued with the terms and conditions that each employee is required to perform the duty so allocated to him without any demure. The workmen after accepting the said terms and conditions joined the service. It is also argued that the Certified Standing Orders which is binding on the employees, states that the employees will be assigned any kind or type of work in any department or section of the Company.

8. Now, considering the argument of both the parties it appears that there is no controversy that the jobs of the workmen of the Company have not been classified. There appear to be no controversy that the Company/ Management recruited industrial workmen in four different Grades with four different pay scales. There is also no controversy that the requisite qualification and experience for recruitment of the workmen in different grades were

different from one another. There is also no dispute that the production process of the Company is inter-woven and inter dependent.

9. The controversy relates to the question as to whether all the workmen of the different grades are to perform the same job every day on regular basis.

10. In this reference case the union has claimed for equal pay for the industrial workmen on the ground that the said workmen belonging to different grades are performing equal work every day on regular basis and such equal nature of job has the effect of doing away with the artificial classification. It is the contention of the Company/management that since the production process of the Company is inter-woven the machine is required to run continuously and any stoppage of work may hamper the production and for the said reason at the time of shortage of workmen of any grade on account of leave or absence, other grade of workmen are directed to perform the job of the said absentee workmen in order to keep the machine in running condition. The said situation is occurred occasionally and not on every day.

11. The witness, Shri Amarendra Nath Ghosh (WW-03) in his evidence-in-chief has stated that if anybody of the crew takes leave then any industrial workman irrespective of grades may be posted in the machine by the Section-in-charge.

12. So the said oral evidence of WW-03 goes to show that the workmen of all the grades are not performing the same job on regular basis. On the contrary, from his evidence it is evident that during absence of the workmen of any grade, the workmen of another grade are asked to perform the job of the absentee workmen.

13. There is no reason to disbelieve the said oral testimony of WW-03. So it appears that the said oral evidence of WW-03 supports the contention of the management/company that occasionally on account of exigency, workmen belonging to one grade are asked to perform the job of another grade and the industrial workmen are duty bound to do the same as per the terms and conditions of their appointment as mentioned in their appointment letter and also in the Certified Standing Orders (Exhibits M-02 and M-03 respectively).

14. Now, it is to be considered whether or not the concerned industrial workmen are entitled to get equal pay, if, for the sake of argument, it is admitted that all grades of workmen are compelled to do equal work by the management.

15. In the instant case, admittedly there are different grades of industrial workmen with varying qualifications and experience for entering into a particular grade. The higher grade is a promotional avenue for the lower grade. The doctrine of 'equal pay for equal work' has been

enshrined in Article 39(d) in Part-IV of the Constitution of India which is one of the directive principles of state policy, requiring the state to secure 'equal pay for equal work', for both men and women. Now it is well settled on the basis of the different judgments of the Hon'ble Supreme Court that the principle of 'equal pay for equal work' has assumed the status of fundamental right in service jurisprudence, having regard to the constitutional mandate of equality in Articles 14 and 16 of the Constitution of India.

16. It is also well settled that mere fact that the nature of work of two sets of employees are more or less same will not entitle the workmen in such employment to the same scale of pay. In *State of Haryana & Anr. V. Tilak Raj & Ors.*, reported in 2003-III-LLJ 487 the Hon'ble Supreme Court has observed that " 'Equal pay for equal work' is a concept which requires for its applicability complete and wholesome identity between a group of employees claiming identical pay scales and other group of employees who have already earned such pay scales. The problem about equal pay cannot always be translated into a mathematical formula." (Paragraph 11)

In *Delhi Veterinary Association v. Union of India*, reported in AIR 1984 SC 1221 the Hon'ble Supreme Court observed that apart from the nature of work, the pay structure should reflect many other values and stated that the employer should follow certain basic principles in fixing pay scales for various posts and cadres. The degree of skill, strain of work, experience involved, training required, responsibility undertaken mental and physical requirements, disagreeableness of the task, hazard attendant on the work of fatigue involved, are some of the relevant factors which should be taken into consideration in fixing pay scales. The method of recruitment, the level at which the initial recruitment is made in the hierarchy of service or cadre, minimum educational and technical qualifications prescribed for the post, the nature of dealings with the public, avenues of promotion available and horizontal and vertical relativity with other jobs in the same service or outside, are also relevant factors.

In *State of Andhra Pradesh v. Sreenivasa Rao*, reported in 1998-II-LLJ 149 the Hon'ble Supreme Court has also observed that the doctrine of 'equal pay for equal work' does not mean that all members of a cadre must receive the same pay packet, irrespective of their seniority, source of recruitment, educational qualifications and various other incidents of service.

It has been held by the Hon'ble Supreme Court in *Fertilizer Corporation of India v. Sarat Chandra Rath*, reported in 1996-II-LLJ 913 that there was no discrimination in fixing the pay of the two categories of employees, one who had not acquired the officers' grade and the other who had already acquired the officers' grade, keeping in view their designation as well as their pay scales obtaining on the relevant date, because they were, in different classes.

These two categories were unequal and the claimants could not, in law, make any grievance if different principles were adopted in fixing their respective pay scales.

In State of Uttar Pradesh v. Ramashraya Yadav, reported in 1996-II LLJ 92 the Hon'ble Supreme Court has observed that the principle of 'equal pay for equal work' will not apply where the qualifications prescribed, mode of recruitment and the nature of duties are different for regular employees and a temporary employees.

17. So, the principle of 'equal pay for equal work' can only be enforced if the claiming persons satisfy the Tribunal that not only the nature of work is identical but in all other respects also they belong to the same class and there is no apparent reason to treat 'equals as unequals'.

18. On perusal of the said decisions it appears that the decisions reported in AIR 1999 SC 1734, AIR 1975 SC 2238, AIR 1998 SC 2979 and Supreme Court Civil Appeal No. 11821 of 1996 have got no relevancy in the instant case. The decisions reported in AIR 1987 SC 2049, AIR 1998 SC 1504, AIR 2008 SC 1028, Supreme Court Writ Petition No. 4676 of 1998, Supreme Court Civil Appeal No. 4106 of 2004 and High Court of Madras Writ Petition No. 7872 of 1991 are also not applicable in the facts and circumstances of the instant case.

19. In this case, admittedly there are different grades of industrial workmen with varying qualifications, experience etc. for entry into a particular grade. So, the industrial workmen of all the grades cannot be said to be equal.

20. In the instant reference it is the case of the Company/management that the Company has introduced modern technology by installing improved machines and providing modern techniques, system etc. and for that reason during the absence of any industrial workmen of any grade, workmen of other grade are asked to do the job of the absentee workmen to keep the machine in running condition. It is also the case of the Company that the production process of the Company is inter-woven and any segmental approach in going for water-tight job classification will lead to stoppage of work in different areas affecting the total process. For the said reason job classification will make the system slow and production will hamper which will have a far-reaching consequence.

21. The above contention of the Company has not been denied by the union.

22. Having regard to the decisions of the Hon'ble Supreme Court referred to above and the aforesaid discussions, I am of the considered view that the concerned industrial workmen are not entitled to get equal pay and that classification of job of the industrial workmen employed in different grades is not desirable.

23. The instant order of reference is answered accordingly.

Justice DIPAK SAHARAY, Presiding Officer

Dated, Kolkata,
The 19th February, 2015.

नई दिल्ली, 9 मार्च, 2015

का.आ. 497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 77/2001) प्रकाशित करती है जो केन्द्रीय सरकार को 09.03.2015 को प्राप्त हुआ था।

[सं० एल-41012/20/2001-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 497.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 09/03/2015.

[No. L-41012/20/2001-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT LUCKNOW

PRESENT

RAKESH KUMAR,
PRESIDING OFFICER

I.D. No. 77/2001

Ref. No. L-41012/20/2001-IR(B-1) dated 16.05.2001

BETWEEN

Shri Ashok Singh Bhadouriya
S/o Sh. Hira Singh Bhadouriya
H. No 628/1, Thomson Compound, Sipri Bazar,
Jhansi —284 001.

AND

1. The Divisional Railway Manager (P)
Central Railway
Jhansi —284 001.
2. The Chief Telecom Unication Inspector
(Microwave)
Central Railway
Jhansi - 284 001.

AWARD

1. By order No L-41012/20/2001-IR(B-1) dated 16.05.2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ashok Singh Bhadouriya, S/o Sh. Hira Singh Bhadouriya, H. No. 628/1, Thomson Compound, Sipri Bazar, Jhansi and the Divisional Railway Manager (P), Central Railway, Jhansi & the Chief Telecom Unication Inspector (Microwave), Central Railway, Jhansi to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

"WHETHER THE ACTION OF THE DIVISIONAL RAILWAY MANAGER, CENTRAL RAILWAY, JHANSI IN TERMINATING THE SERVICES OF SHRI ASHOK SINGH BHADOURIYA W.E.F. 5-5-1982 IS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF THE WORKMAN IS ENTITLED?"

3. It is admitted case of the parties that the workman, Sri Ashok Singh Bhadouriya, had been engaged as casual labourer with the opposite parties and had been granted Monthly Rate Casual Labour (M.R.C.L.) or temporary status. The details of working in respect of the workman is endorsed in the casual labour card No. 102339, issued by the opposite party.

4. It has been submitted by the workman that he had been engaged w.e.f. 05.04.79 and worked up to 04.05.82 for approximately 1000 days. The workman has submitted that he has not been given benefit of regularization schemes, circulated in the year 1996 and 1997 by the Railway Board. The workman has alleged that his services have been terminated without assigning any reason or any notice or notice pay in lieu thereof or any retrenchment compensation in violation to the provisions of Section 25 F of the Act. The workman has submitted that as per Rules contained in the Railway Establishment Manual, after grant of MRCL/ temporary status, the workman was ought to have been given 14 days, notice but the management did not comply the said Rule; accordingly, their action was illegal and unjust. It is also submitted by the workman that he made several representations before the railway administration from 1984 to 1995 but all in vain. Therefore, the workman has prayed that his termination w.e.f. 05.05.82 be set aside and he be reinstated with all consequential benefits.

5. The management has denied the allegations of the workman in its written statement; wherein it has submitted that it did not terminate the services of the workman at any point of time; rather it was workman himself who abandoned his services and did not turn up w.e.f. 05.05.82. Moreover, the management has also submitted that the workman never submitted any representation before the railway administration and the present claim before this Tribunal is

also very stale one, raised after lapse of 18 years without sufficient explanation. Accordingly, the management has prayed that there is no violation of any of the provisions contained in the industrial disputes Act, 1947 or of any Rule in the Railway Establishment Manual, therefore, the claim of the workman is liable to be rejected being devoid of any merit, without any relief to him.

6. The workman has filed its rejoinder; wherein apart from reiterating the averments already made by him in his statement of claim he has submitted that as per Rule 149 (1) of the Railway Establishment Rule it is necessary to adopt legal course before terminating services of an employee who has attained temporary status. It is also stated that there is no limitation in the Industrial Disputes Act, 1947, therefore, the claim of the workman is not time barred, in as much as the Appropriate Government has referred the dispute to this Tribunal after examining all aspects, including delay.

7. The workman has field photocopies of certain documents in support of his claim vide list dated 24.05.2002, detailed as under:

(i) *Casual Labour Card.*

(ii) *Representations of the workman dated 4.1.85, 18.2.85, 11.7.86, 24.1.87, 18.3.88, 27.6.89, 13.8.90, 18.9.91, 14.5.92, 17.8.93, 17.11.94, 22.4.95, 19.7.96 and 14.12.97.*

(iii) *Circular dated 20.11.96 of Railway Board.*

(iv) *Letter dated 14.10.98 of Central Railway Mazdoor Sangh.*

(v) *Letter dated 14.3.96 of Railway.*

The management of the railways has not filed any documentary evidence in support of its claim.

8. The workman has examined himself: whereas the management has examined Shri Chandra Pal Singh, Head Clerk in support of their respective stands. The parties have availed opportunity to cross-examine the witnesses of each other apart from forwarding oral arguments.

9. I have given my thoughtful consideration to the rival contentions of the authorized representatives of the parties and perused the entire evidence available on record in light thereto.

10. The authorized representative of the workman has argued that once the workman had attained MRCL/ temporary status then he was governed by Discipline & Appeal Rules, 1968; but he had been terminated illegally without complying with the conditions provided in Railway Establishment Rules or the provisions contained in the Industrial Disputes Act, 1947. The workman has relied upon:

(i) *Ajaib Singh vs. Sirhind co-operative marketing-cum-Processing Service Society Ltd. & another 1999 LAB IC 1435.*

- (ii) *Sapan Kumar Pandit vs UP electricity Board & others* 2001 (90) FLR 754.
- (iii) *The Chief General Manager, State Bank of India, Chief Office, Lucknow vs. B.C. Verma & another* 1994 LLR 29.
- (iv) *Shish Pal Singh & others vs. Union of India & others* 2000 (1) LLR 153.
- (v) *New Delhi Municipal Council vs. O.P. Sethi & others* 1999 LLR 845.
- (vi) *Baljit Singh vs. The State of Haryana & another* 1995 LLR 504.

11. In rebuttal, the authorized representative of the management has contended that the workman had never been terminated but he himself abandoned the services and did not come to join the job. The management has also stressed on the point of delay in raising the present industrial dispute. The management has relied upon:

- (i) *Indian Iron & Steel Co. Ltd. Vs. Prahalad Singh* (2001) 1 SCC 424.
- (ii) *Award of this Tribunal in I.D. No. 119/2001.*

12. The workman has come up with a case that on having attained MRCL/Temporary Status, he was entitled for protection of Discipline & Appeal Rules, 1968. Also, his termination amounts to retrenchment for having worked for more than 240 days in the year preceding the date of his termination, therefore, he was entitled for the protection of provisions contained in the Section 25 F of the Industrial Disputes Act, 1947. It is also the case of the workman that his case is not covered with the limitation as there is no provision in the Act for this, more so the Appropriate Government has referred his case for adjudication after considering all the aspect, including delay, raised before the conciliating authority.

13. Per contra, the management's sole contention is that it was the workman himself who deserted the job, therefore, there was no illegality from the management side as there was no termination at all. The management has also raised the issue of delay prominently; apart from disputing the genuineness of the representation of the workman, alleging the same to be fraudulent and fabricated one.

14. The workman in his cross-examination has stated that he was given appointment on 05.4.79 and was not given any appointment letter. He also stated that he did not do any work after 05.05.82 and moved application before Assistant Labour Commissioner (Central) in the year 2000. He filed his original casual labour card during the course of cross-examination.

On the other hand, the management witness Shri Chandra Pal Singh, Head Clerk, verified the genuineness of Casual Labour Card. In cross-examination, he stated that the representations filed by the workman

were not received in his office. He admitted that no letter was served upon the workman regarding termination and also admitted that no departmental action was taken against the workman for abandoning his service.

15. After having a close look on the pleading of the rival parties, documentary evidence relied upon and oral evidences, the main issue is to be adjudicated upon as to whether the management terminated the services of the workman or he himself abandoned the same; and in case of abandonment what were the administrative/disciplinary recourse that were to be adopted by the management.

16. Admittedly, the workman had initially been engaged as casual labour, who had been given MRCL/Temporary Status subsequently. The entitlement and privileges admissible to such casual labourers who have attained temporary status is specified in Rule 2005 of the Railway Establishment Manual, which reads as under:

"2005. Entitlements and Privileges admissible to Casual Labour who are treated as temporary (i.e. given temporary status) after the completion of 120 days or 360 days of continuous employment (as the case may be). — (a) Casual labour treated as temporary are entitled to the rights and benefits admissible to temporary railway servants as laid down in Chapter xxiii of this Manual. The rights and privileges admissible to such labour also include the benefit of D&A Rules."

Further, the above position is reiterated by the Circular No. E(NG)60CL-13 dated 13.5.1965 which reads as under:

"Casual labour are not governed by D&AR, 1968, but when such casual labor attain temporary status, these rules will become applicable to them. Similar is the case with substitutes."

Hence, from admitted facts of the present case, it is crystal clear that the workman was entitled of rights and privileges admissible to temporary railway servants i.e. the benefits of Discipline and Appeal Rules, 1968 were available to the workman and in case of any misconduct on behalf of the workman, he should have been treated accordingly. Furthermore, note below Rule 2004 of Railway Establishment Manual is worthwhile, which reads as under:

"2004. Notice of Termination of service. — Except where notice is necessary of the day.

Note. — In the case of a Casual Labourer who has obtained temporary status after completion of prescribed period of continuous employment, the period of notice will be determined by the rule applicable to temporary railway servants."

Thus, when the workman had been granted temporary status then the period of notice before terminating his services was going to be determined by the rules applicable

to the temporary railway servants *i.e.* Discipline and Appeal Rules, 1968; but the management failed to observe the requirements of the above Rule. The management has taken plea that the abandonment of the workman may be treated as unauthorized absence and from that point of view he is not entitled any relief. But from that angle too, once the workman had been given MRCL/temporary status, then the protection of Discipline and Appeal Rules, 1968 was available to him therefore, any stigmatic action against him could be taken by the management only after adopting the recourse provided under the Discipline and Appeal Rules, 1968; any deviation from the D&A Rules, 1968 amounts to violation of principles of natural justice and denial of opportunity of self defence to the delinquent workman.

17. The management has opposed the claim of the workman on the issue of delay. In this regard it has relied upon Indian Iron & Steel Co. Ltd. Vs. Prahalad Singh (2001) 1 SCC 424; but the facts of the case is different from the present industrial dispute. In the above case law, Hon'ble Apex Court up held the award of the Industrial Tribunal when there was a delay of 13 years, particularly when the Industrial Tribunal had found that by overstaying the workman had lost his lien in terms of Standing Orders applicable to him. Whereas in the present case, the Rules provide protection to the workman and are favourable to him as the management did not observe the formalities when workman did not turn up to his duties.

The reliance of the management on award of this Tribunal in I.D. No. 119/2001, Rajendera Prasad vs Central Railway is of no use as the facts of said case are again different from the present case. The workman in the present case had been granted MRCL/temporary status, whereas in the case relied upon by the management the workman was just a casual labour without temporary status, thus, his case was entirely different from that of the present case.

On the issue of delay the workman has tried to explain his delay by filing the copies of the various representations moved before the management of the railways. The opposite party has disputed its genuineness through pleadings as well as oral evidence. The workman has pleaded that the reference was made by the appropriate Government after considering all aspects, including delay, which was under consideration before the Assistant Labour Commissioner (Central). He has also contended that there is no limitation providing in the Industrial Disputes Act, 1947.

In this regard the workman has relied upon The Chief General Manager, State Bank of India, Chief Office, Lucknow vs. B. C. Verma & another 1994 LLR 29; wherein the question for consideration before Hon'ble Allahabad High Court was whether inaction or delay in raising industrial dispute by the workman can be condoned; Hon'ble High Court observed as under:

"In the present case, Section 10(1) may be read along with Section 10 (5). Both the sub-sections read together lead to conclusion that 'at any time' the Reference can be made in the exercise of the administrative power by the Central Government provided there exists an industrial dispute or the same is apprehended. He use of expression "at any time" in both the sub-sections clearly indicates that legislature never intended any limitation to be imposed for making reference."

In the present case, admittedly there is delay of approximately 18 years and the workman has tried to explain the same by filing copies of various representations he moved before the railway administration; but the management has disputed their genuineness. Hon'ble Apex Court in Ajaib Singh vs. Sirhind Co-operative Marketing-cum-Processing Services Society Ltd. & another 1999 LAB /C 1435 where there was admitted delay of seven years has held that the Court can mould relief by refusing back wages or directing payment of part of back wages.

18. Thus, from the facts and circumstances of the case and the case laws cited hereinabove, I am of considered opinion that the action of the management of Central Railway in terminating the services of Sri Ashok Singh - Bhadouriya who was given MRCL/temporary status w.e.f. 05.05.1982, without complying with the provisions of Discipline and Appeal Rules, 1968, was illegal and unjustified. Accordingly, I come to the conclusion that the workman, Sri Ashok Singh Bhaduriya is entitled for reinstatement; however, he would be liable for payment of only 25% of back wages, in view of delay in raising the present industrial dispute.

19. The reference under adjudication is answered accordingly.

20. Award as above.

LUCKNOW RAKESH KUMAR, Presiding Officer
05th January, 2015.

नई दिल्ली, 10 मार्च, 2015

का.आ. 498.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, दिल्ली के पंचाट (संदर्भ संख्या 127/2013) प्रकाशित करती है, जो केन्द्रीय सरकार को 2.3.2015 प्राप्त हुआ था।

[सं० एल-11011/8/2013-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 498.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 127/2013) of the Central Government Industrial Tribunal/Labour Court No. II, Delhi now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 2.3.2015.

[No. L-11011/8/2013-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II, KARKARDOOMA COURT
COMPLEX, DELHI**

Present : Shri Harbansh Kumar Saxena

ID No. 127/2013

The General Secretary,
Contract Mazdoor Union, (Regd.) B-57,
Gali No. 9 Rajapuri, Uttam Nagar, ... Workmen

Versus

1. The Eexutive Director
AAI, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi.
2. The Director,
M/s Aggarwal packers & Movers Pvt. Ltd.
Cargo Complex, IGI Airport,
New Delhi.
3. The Director,
M/s Jac Airways Services Pvt. Ltd.,
Inaternational Cargo Terminal,
Public Aminities Bui,
Ground Floor, IGI Airport,
New Delhi-110037. ...Management

NODISPUTE AWARD

The Central Government in the Ministry of Lobur *vide* notification No. L-11011/8/2013-(IR(M) dated 09.10.2013 referred the following Industrial Dispute to this Tribunal for adjudication:—

"Whether the demand raised by the workmen of M/s. Aggarwal Packers and Movers Ltd., one of the contractor of Celebi Delhi Cargo India Pvt. Ltd. are legal and justified? What relief the workmen concerned are entitled to?"

On 31.10.2013 reference was received in this Tribunal. Which was registered as ID. No. 127/2013 and claimants

were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workmen nor management filed claim statement/Response to the reference.

In this background there is no option to this Tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings. On the basis of which none of the party can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated:- 09/2//2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 10 मार्च, 2015

का.आ. 499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में मैसर्स डालमिया मैग्नेसाइट कारपोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 37/2014) प्रकाशित करती है, जो केन्द्रीय सरकार को 2/3/2015 प्राप्त हुआ था।

[सं एल-27012/02/2013-आईआर (एम)]
जोहन तापनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 37/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of M/s Dalmia Magnesite Corporation and their workman, which was received by the Central Government on 2.3.2015.

[No. L-27012/02/2013-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 25th February, 2015

Present: K.P. PRASANNA KUMARI
Presiding Officer

Industrial Dispute No. 37/2014

(In the matter of the dispute of adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of

the Industrial Disputes Act, 1947, (14 of 1947), between the Management of Dalmia Magnesite Corporation and their workman)

BETWEEN

Sri L. Balu : 1th Party/Petitioner

AND

The Assistant General Manager 2nd Party/Respondent
M/s Dalmaia Magnesite Corporation
Prop. Dalmia Bharat Sugar and
Industries Ltd. Vellakkalpatti,
Karuppur Post
Salem-636012

Appearance

For the 1st Party/Petitioner : Mrs. C.S. Monica,
Advocate

For the 2nd Party/Respondent : M/s.T. Poornam, P.J.
Sriganth, Advocates.

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-27012/02/2013-IR(M) dated 02.04.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of M/s Dalmia Magnesite Corporation regarding termination of service of the petitioner Sri L. Balu w.e.f 23.07.2011 is justified or not?" If not, to what relief the workman is entitled to?"

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID 37/2014 and issued notices to both sides. Both sides entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner had joined the service to the Respondent as an Apprentice in the year 1989. Thereafter he was appointed as Temporary Mazdoor and was later confirmed in the service. He has rendered service for about 21 years in the Respondent Company. the Respondent Management issued Show Cause Notice dated 16.07.2011 to the petitioner stating that the petitioner was on unauthorized absence for a total of 148 days and that he was on unauthorized absence for 64 days from January 2011 to June 2011. The petitioner was proposed to be terminated with one month's notice pay and terminal benefits. The petitioner gave a detailed explanation for the Show Cause Notice. By Office Order dated 23.07.2011 the petitioner was imposed with the punishment of termination from service with immediate effect. Though the petitioner preferred an appeal against

the order of termination the Appellate Authority upheld the order. Before passing the termination order, the Management did not conduct any enquiry. The petitioner was the Secretary of the Union. The Management has terminated the petitioner only to get rid of him, he being a union worker. The petitioner was absent from work due to health reasons of himself and that of his family. the petitioner has produced the medical records and has explained the reason for absence. These were not considered by the Appellate Authority. The petitioner was not afforded of opportunity of hearing before passing the order of termination. An order may be passed holding that the action of Respondent in terminating the petitioner is unjustified and also directed the Respondent to reinstate the petitioner with full back wages and other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

The code of conduct and working of the workman in the Respondent Organization are governed by the Certified Standing Orders which are binding on them and their union. As per Clause-19 (III) of the Certified Standing Orders, if a workman is absent from work for three months continuously on account of illness or is absent for any broken period aggregating to 60 days or more during any period of 6 months, the Management shall have the right to terminate his service after giving him one month's notice and granting him all terminal benefits. Even while working as Apprentice, the attendance of the petitioner was poor. So he not considered for job and was relieved. Then he gave a written assurance for regular attendance and was re-appointed as Apprentice for a period of 6 months. He agreed that the Management could terminate his services if he was irregular. During the year 2001 to 2010, the petitioner had worked for 167.250 days out of total 306 working days. During the 6 months from January to June, 2011 he worked for 69 days only out of the 151 working days. Memos have been issued to the petitioner on 7 occasions for his absence from duty and he was warned on one occasion. The decision of the Respondent to terminate the service of the petitioner is after providing several opportunities to him. In the appeal the petitioner has accepted the charge but has requested for reconsideration of the termination and assured regular attendance. The petitioner did not dispute in his reply that he was absent from the period mentioned. The termination of the petitioner is in accordance with the Certified Standing Orders. The petitioner is not entitled to any relief.

5. The evidence in the case consists of documents marked as Ext. W1 to Ext. W20 and Ext. M1 to Ext M5. No oral evidence was adduced on either side.

6. The points for consideration are:

- (i) Whether the action of the Respondent in terminating the service of the petitioner is justified?

(ii) To what relief, if any, the petitioner is entitled?

The Points

7. The petitioner who was working as Mazdoor in the service of the Respondent was terminated from service under clause-19(III) of the Certified Standing Orders of the Respondent. This clause provides for termination if a workman is absent from work three months continuously or is absent for a broken period aggregating 60 days or more during a period of any 6 months.

8. Before terminating the service of the petitioner, the Respondent has issued a Show Cause Notice and the same is marked as Ext. W5. This Show Cause Notice gives the details of absence of the petitioner from work. Year-wise details as well as details of authorized leave, sick leave, loss of pay and unauthorized absence are given. The details of absence during six months from January to June, 2011 are also given in the Show Cause Notice. This also gives the details of the memos that were issued to the petitioner for his absence and also that of the action taken against him for the absence. Ext. WW6 is the reply given by the petitioner to the Show Cause Notice. In the reply it is not disputed that the petitioner was absent during the period mentioned in the Show Cause Notice. However, the petitioner has tried to explain why he happened to be absent.

9. As could be seen from Ex. W8, the order of termination that the petitioner was terminated from service only on account of his unauthorized absence during the years he had worked. The argument that is advanced on behalf of the petitioner is that the Respondent was not justified in terminating the petitioner without conducting an enquiry. The counsel for the Respondent has argued that there was no necessity to conduct an enquiry at all, the petitioner having admitted his absence and the termination being on the basis of Clause-19(III) of the Certified Standing Orders. The counsel has taken support from the decision of the Apex Court in MUNICIPAL CORPORATION GREATER BOMBAY VS. P.S. MALAVENKAR AND OTHERS reported in 1978 II LLJ 168. While considering the Standing Order of MUNICIPAL CORPORATION, GREATER BOMBAY, the Apex Court has held that the Management has the power to impose punishment for misconduct after a disciplinary enquiry and also the power to impose punishment for misconduct after a disciplinary enquiry and also the power to terminate service of an employee by one calendar month's notice or pay in lieu thereof under the Standing Order. Since the workman was terminated because of his unsatisfactory work record the Apex Court found that the order of termination was not punitive in character and there was no necessity of an enquiry. According to the counsel for the Respondent the termination of the petitioner herein being on the basis of Clause-19(III) of the Standing Orders, there was no necessity of an enquiry at all. The counsel has also referred to the fact that the petitioner has admitted his absence and for this reason also there was no necessity

for any enquiry. In this respect he has referred to the decision of the Apex Court in Central Bank of India Ltd. Vs. KARUNAMOY BANERJEE reported in 1967 2 LLJ 739. Here it was held that when the workman himself has admitted his guilt there will be nothing for the Management to enquire into. When the workman has admitted his guilt insisting upon Management to let him evidence will be an empty formality, it was held. Even though in the present case, unauthorized absence is not alleged as a misconduct, according to the counsel for the Respondent in view of the admission of his absence by the petitioner there was no necessity to conduct an enquiry at all.

10. In reply to the above argument of the counsel for the Respondent, the counsel for the petitioner has referred to the subsequent decision of the Apex Court taking a contrary view. In the decision in D.K. YADAV VS. J.M.A. INDUSTRIES LTD. reported in 1993 2 LLJ 696, the Apex Court has held that even if the Standing Order provides for an automatic removal of an employee on account of unauthorized absence, such Standing Orders will become illegal if principles of natural justice are not read into the same. Even in such cases, employees must be heard before an order is passed by the employer removing the name of the workman from the list, it has been held. In the decision in UPTRON INDIA LTD. VS. SHAMMI BHAN AND ANOTHER reported in 1998 6 SCC 538 also it was held that the discretion conferred on the Management to terminate or not to terminate the services of an employee who overstays the leave has to be based on objective consideration of all the circumstances and material which may be available on records. The employee against whom action on the basis of the provision proposed to be taken must be given an opportunity of hearing, it was held. Thus, it could be seen that in spite of the Standing Orders providing for termination of the workman from service on account of unauthorized absence the employer is bound to conduct enquiry.

11. The Respondent could not rely on the admission of absence allegedly made by the petitioner also. True, he has not disputed the case in the Show Cause Notice that he was absent during the period mentioned in the notice. However, he had tried to explain his part and justify his absence on the ground that the absence was under circumstances beyond his control. Though, he has elaborated this fact in his reply statement the Management has not thought it necessary to make an enquiry into the reasons given by him for his absence. On the other hand, the Management has terminated the petitioner from service quoting the particular clause in the Standing Order and stating that he comes within the clause because of his absence. The Apex Court has repeatedly held that it is not only enough that an employee is unauthorizedly absent from duty but it should be shown that the absence was willful and deliberate. This has been reiterated by the Apex Court in the recent decision in CHEEL SINGH VS. M.G.B.

GRAMIN BANK AND OTHERS in Civil Appeal No. 6018/14 dated 07.07.2014. The petitioner has produced a plethora of documents pertaining to the treatment of himself and his wife before this Tribunal. These seem to have been shown to the Appellate Authority also. He had also wanted other documents to be summoned but his attempt to justify himself has not been considered by the Management at all. In the absence of an enquiry the petitioner was gravely prejudiced. The order of termination of the Respondent without any enquiry is not sustainable. The petitioner is entitled to be reinstated in service.

12. Accordingly an award is passed as follows:

The Respondent is directed to reinstate the petitioner in service within a month of the award. The Respondent shall also pay 50% back wages to the petitioner from the date of his termination, within a month of the award in default of which the petitioner is entitled to interest at the rate of 9% per annum from the date of the award.

The reference is answered accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner	None
For the 2nd Party/Management	None

Documents Marked

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	31.05.1990	Office Order issued by the Respondent Corporation
Ex.W2	25.07.1991	Letter issued by the Magnesite Labour Union to the Respondent Corporation
Ex.W3	01.02.1993	Office order issued by the Respondent Corporation
Ex.W4	27.04.1996	Notice issued to the petitioner to the Respondent Corporation
Ex.W5	16.07.2011	Show Cause Notice issued to the petitioner by the Respondent Corporation
Ex.W6	20.07.2011	Reply to the petitioner to the Show Cause Notice
Ex.W7	23.07.2011	Approval application of the Respondent Corporation filed before the Conciliation Officer, Asstt. Labour Commissioner (Central), Chennai

Ex.W8	23.07.2011	Order of termination issued by the Respondent Corporation to the petitioner (Tamil Version)
Ex.W9	23.07.2011	Order of termination issued by the Respondent Corporation to the petitioner
Ex.W10	23.07.2011	Cheque issued by the Respondent Corporation to the Petitioner
Ex.W11	26.07.2011	Letter to the petitioner to the Respondent Corporation
Ex.W12	01.08.2011	Attendance details of the petitioner for the year 2011
Ex.W13	05.08.2011	Notice of hearing before the Appellate Authority
Ex.W14	08.08.2011	Letter of the petitioner to the Respondent Corporation
Ex.W15	08.08.2011	Statement of leave pertaining to the petitioner
Ex.W16	08.08.2011	Proceedings before the Appellate Authority
Ex.W17	10.08.2011	Order of the Appellate Authority
Ex.W18	11.08.2011	Letter of the Respondent Corporation to the Conciliation Officer
Ex.W19	24.08.2011	Letter of the Respondent Corporation to the petitioner
Ex.W20	—	Medical Records

On the Respondent's side

Ex.No.	Date	Description
Ex. M1	20.07.1991	Letter from Petitioner to Respondent
Ex. M2	25.07.1991	Letter from Petitioner to Respondent
Ex. M3	20.07.2011	Letter from Petitioner to Respondent
Ex. M4	08.08.2011	Letter from Petitioner to Respondent
Ex. M5	—	Certified Standing Order of the Respondent

नई दिल्ली, 10 मार्च, 2015

का.आ. 500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, दिल्ली के पंचाट (संदर्भ संख्या 45/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02/03/2015 को प्राप्त हुआ था।

[सं० एल-30012/33/91-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D.No.45/1992) of the Central Government Industrial Tribunal/Labour Court No.II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of O.N.G.C. Ltd. and their workman, which was received by the Central Government on 2/3/2015.

[No. L-30012/33/91-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT - II, KARKARDOOMA COURT COMPLEX, DELHI

Present:- Shri Harbansh Kumar Saxena

ID No.45/1992

Sh. Chand Ballabh
Represented by the General Secretary,
O.N.G.C. Karamchari Union,
87-1/1, Ballupur,
Dehradun-248 001.

Versus

The Management of Chairman
O.N.G.C. Tel Bhawan,
Dehradun.

Ex-parte Award

The Central Government in the Ministry of Labour *vide* notification No. L-30012/33/91- [1R(VIVIDH)] dated 07.05.92 referred the following Industrial Dispute to this Tribunal for adjudication:—

I. "Whether Sri Chand Ballabh, Head Draftsman (Geoscience) of ONCC is a workman under I.D. Act, 1947.

II. "Whether the action of the management of ONCG Dehradun is not time bound promotion to the post of Drawing Officer *w.e.f.* 1.1.90 to Sh. Chand Ballabh, Head Draftsman (Geoscience) is justified? If not to what relief he is entitled to?"

On 8.5.92 reference was received in this Tribunal. Which was reaster as I.D. No. 45/1992 and claimant was called upon to file claim statement with in fifteen days from date of

service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Workman filed claim statement on 08.09.92. Where-in he prayed as follows:—

- a. Sh. Chand Ballabh, Head Draftsman (Geoscience) a 'workman' under section 2(s) of the Industrial Disputes Act, 1947;
- b. The action of the management of O.N.G.C. Dehradun in not giving time-bound promotion to the post of Drawing Officer with effect from 1.1.1990 to Sh. Chand Ballabh, Head Draftsman (Geoscience) as illegal and unjustified;
- c. Sh. Chand Ballabh, Head Draftsman (Geoscience) who is Graduate from a recognized University -- B.A. (Arts). a prescribed qualification under R & P - Regulations, 1947 entitled to the relief of being treated at par with Q.2.
- d. Sh. Chand Ballabh, Head Draftsman (Geoscience). entitled to the relief of his time bound promotion to the post Drawing Officer . *w.e.f.* 1.1.1990.
- e. Sh. Chand Ballabh, Head Draftsman (Geoscience) is entitled to the incidental relief of getting "one-third relaxation in experience" under the special scheme of "the criteria of one-third relaxation in experience" introduced and implemented in the beginning of the current year 1992 by the management of O.N.G.C. Dehradun in consequence thereof entitled to the advancement of date of time-bound promotion 1.1.1990 by one year-resulting his entitlement to said promotion *w.e.f.* 1.1.89 instead of 1.1.90;
- f. Sh. Chand Ballabh, Head Draftsman (Geoscience), entitled to all consequential benefex to such promotion regarding payment of all arrear that become due;
- g. Payment of interest at market rate on all arrears;
- h. Any other relief/reliefs which the Hon'ble Tribunal may deem fit and proper in the 'facts and circumstances of the instant dispute to meet the ends of justice;

Against claim statement management filed written statement on 18.2.1993. Wherein management prayed as follows:—

It is respectfully prayed that matter of dispute and legal objections taken by the opp. party may kindly be decided in favour of the Opp. Party rejecting the claim of the person concerned.

Against written statement workman filed rejoinder on 13.10.1993. Where-in workman prayed as follows:—

It is, therefore, respectfully prayed that the patently false and frivolous written statement filed on behalf of the O.P./Management containing altogether distorted, fabricated, concocted facts with malafide and motivated intentions to conceal the fact of "Glorious Disinrimination" done to the workman concerned Sh. Chand Ballabh may be rejected forthwith and the claim statement and this Rejoinder filed on behalf of the representing union be admitted as true containing facts on record and facts of law in its true form and shape without any distortion or change in any manner whatsoever. It is further prayed that this Hon'ble Tribunal may graciously be pleased to give its Award granting reliefs to the workman as prayed for in the claim statement.

My Ld. predecessors has not framed any issue but proceed to adjudicate the present reference on the basis of schedule wherein questions of determination are as follows:—

I. "Whether Sh. Chand Ballabh, Head Draftsman (Geoscience) of ONGC is a workman under I.D. Act 1947.

II. Whether the action of the management of ONGC Dehradun is not giving time bound promotion to the post of Drawing Officer *w.e.f.* 1.1.90 to Sh. Chand Ballabh, Head Draftsman (Geoscience) is justified? If not to what relief he is entitled to?"

Perusal of order sheets makes it crystal clear that several opportunities to workman were given to adduce his evidence. But he remain dormant to adduce his evidence. He has not turned up even to attend proceedings of the case in this I.D. of 1992. In this background on 31.12.2013 I fixed 14.4.2014 for workman evidence/management evidence. On 14.4.2014, 3.3.2014 was also fixed for workman evidence/management evidence.

On 3.3.2014 Ld. A/R for the management Sh. Somi Ram Sharma expressed his desire that he will adduce the evidence on behalf of management after closing the right of evidence of workman. Although affidavit of management witness have already been filed by management which was on record. On his submission I passed an order on order sheet that his right has impliedly been closed. And management was permitted to file its evidence. So, there remains no need to pass separate order to close the evidence of workman. Fixed 7.4.2014 for tendering of affidavit of management witness which is already on record. On 7.4.2014 management sought adjournment I fixed 10.07.2011 for tendering of affidavit of management witness. On 10.07.2014 management again sought adjournment I fixed 1.8.2014. On 1.8.2014 management sought adjournment on the ground of conveyance problem which was allowed and adjourned to 4.9.2014. On 4.9.2014 management sought adjournment I allowed and adjourned to 30.10.2014 and on

30.10.2014 management again sought adjournment which was adjourned and allowed to 6.1.2015 On 6.1.2015 management tendered affidavit of his witness MW1 Sh. Virender Pratap Singh. Thereafter, management closed its evidence and 27.1.15 was fixed for arguments. On 27.1.2015 I reserved the award and permitted the Ld. A/R for the management to argue pending disposal of award.

Meanwhile Ld. A/R for the management argued. In the light of his contentions. I perused the pleadings of the parties and evidence of management on record including settled law and relevant provisions of law.

In the instant case workman has adduced no evidence in support of his claim. Moreover, management has adduced its evidence to prove contents its written statement.

In these circumstances there is no evidence on record in favour of workman/claimant. So, reference is liable to be decided against workman/claimant and in favour of management. Claim statement is liable to be dismissed.

Reference is accordingly decided in favour of management and against workman/claimant and claim statement is accordingly dismissed.

Ex-parte is accordingly passed.

HARBANSH KUMAR SAXENA, Presiding Officer

Dated:- 19.2.2015

नई दिल्ली, 10 मार्च, 2015

का.आ. 501.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम्पी० स्टेट माइनिंग कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 132/96) प्रकाशित करती है जो केन्द्रीय सरकार को 2/3/2015 को प्राप्त हुआ था।

[सं० एल-29012/9/96-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D.No.132/96) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employeres in relation to the management of MP State Mining Corporation Limited and their workman, which was received by the Central Government on 2/3/2015.

[No. L-29012/9/96-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/132/96**

Branch Secretary,
MP State Mining Corporation Karmchari Sangh,
Nayapara, Jagdalpur

Workman/Union

Versus

Managing Director,
MP State Mining Corporation Ltd.,
E-5/14, Arera Colony,
Ravindra Nagar,
Bhopal.

Management

AWARD

Passed on this 29th day of January, 2015

1. As per letter dated 31-5-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-29012/9/96-IR(Misc). The dispute under reference relates to:

"Whether the action of the management of M.P. State Mining Corporation Ltd., Bhopal in terminating the services of Shri Jagdish Prasad Srivastava, Ex-Chowkidar is justified? If not, to what relief is he entitled to?"

2. After receiving reference, notices were issued to the parties. On behalf of Ist party workman statement of claim is submitted by Secretary, MP State Mining Corporation. Case of workman is that he was appointed as watchman as per order dated 1-7-85 at Jagdalpur Office of IInd party Corporation. That co-employees working with him were regularized and made permanent by the corporation. Ist party workman was picked out and his services were put to end. It is further submitted that workman was suspended on vague allegation that there was shortage of tin ore of Pushpal camp. The suspension order was silent who were responsible for the alleged shortage and how workman was responsible for it. Officer incharge Shri Sanju was suspended. DE was held against him. Officer was exonerated with all charges. His suspension was revoked. Workman was suspended as per order dated 12-4-89. No chargesheet was issued to him. Any enquiry was not conducted against him. Vide order dated 19-5-89, he was reinstated in service.

3. Workman submits that his service record was unblemished. There was no complaint against him. Any enquiry was not conducted about misconduct on his part. His services were discontinued from 25-5-89 just after six days of his reinstatement. He was removed from service. That no watchman is available in office at Jagdalpur where

workman was posted. The post is vacant. His appointment was on regular basis. It is submitted that retrenchment of workman is unwarranted when post of waterman was lying vacant. The services of workman could not be discontinued unless any misconduct is committed by him proved in the enquiry. The order of removal of workman is high hands. Higher authorities are playing with his career. Action of IInd party is illegal, arbitrary. Notice of retrenchment was not issued to him. He was not paid retrenchment compensation or pay in lieu of notice. That junior employees are regularized and his services are discontinued illegally. On such ground, it is prayed that workman be reinstated with back wages.

4. Application for impleading Chhattisgarh Mineral Development Corporation was submitted on 9-5-05 by counsel for management. It appears said application was rejected. Written Statement filed by IInd party at Page 15 is devoted on the point that Ist party workman was working at Jagdalpur office of MP State Mining Corporation. After bifurcation of State, the area covers under State of Chhattisgarh. MP State Mining corporation is bifurcated. Area comes under Chhattisgarh Mineral Development Corporation. Workman can pray relief from Chhattisgarh Mineral Development Corporation.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|--|---------------------|
| (i) | Whether the action of the management of M.P. State Mining Corporation Ltd., Bhopal in terminating the services of Shri Jagdish Prasad Srivastava, Ex-Chowkidar is justified? | In Negative |
| (ii) | If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is challenging termination of his service/removal from service without enquiry or notice. That Junior co-employees are regularized and he was picked up for removal from service. IInd party in its Written Statement has contented that after bifurcation of MP State, workman may claim relief from Chhattisgarh Mineral Development Corporation.

7. As per ordersheet dated 24-7-2012, it is noticed that Chhattisgarh Mineral Development Corporation is not present even after notice and as such proceeded exparte.

8. Management despite of repeated chances did not adduce any evidence. Evidence of management is closed on 24-6-2014. Workman has filed affidavit of his evidence. Workman has stated that he was appointed as watchman at Jagdalpur office as per order dated 1-7-85 Exhibit W-1. He was terminated from service without issuing chargesheet or conducting enquiry. No notice was issued to him. His

services were terminated within six months of his reinstatement revoking order of his suspension. His services were discontinued on ground that his services were not required. Workman has produced documents Exhibit W-1 to W-4. In his cross-examination by advocate Srivastava, workman says he was working as watchman at Village Pushpal. He was not doing digging work. In the year 2000, MP State was bifurcated and new state of Chhattisgarh was established. At the same time Chhattisgarh Mineral Development Corporation was established. He was working in Chhattisgarh Mineral Development Corporation. IInd party did not participate in reference proceeding. Workman was not cross-examined. Management has not adduced any evidence.

9. Copy of Madhya Pradesh Re-organization Act 2000 is produced at Exhibit W-5.

Section 82 provides—where immediately before the appointment day, the existing State of Madhya Pradesh is a party to any legal proceedings w.r.t. any property, rights or liabilities subject to apportionment between the states of Madhya Pradesh and Chhattisgarh under this Act, the State, of Madhya Pradesh or Chhattisgarh which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Madhya Pradesh or added as a party to those proceedings and the proceedings may continue accordingly.

In present case, notice was issued to Chhattisgarh Mineral Development Corporation. However it failed to appear and he has been proceeded exparte. Chhattisgarh Mineral Development Corporation failed to participate in reference proceeding. I find no reason to disbelieve unchallenged evidence of workman. his services are terminated without notice, without issuing chargesheet. Therefore I record my finding in Point No. 1 in Negative.

10. Point No.2- In view of my finding in Point No.1 termination of services of workman is illegal, question arises whether he is entitled to reinstatement with backwages. The unchallenged evidence of workman is his services are terminated and employees junior to him are continued in service. His affidavit is silent about his gainful employment. Considering above aspects, termination from service as per order dated 25-5-89, workman cannot be allowed full backwages. In my considered view, reinstatement of workman with 40% backwages would be appropriate. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:—

- (1) The action of the management of M.P. State Mining Corporation Ltd., Bhopal in terminating the services of Shri Jagdish Prasad Srivastava, Ex-Chowkidar is illegal.
- (2) IInd party No.2 Chhattisgarh Mineral Development Corporation is directed to reinstate

workman with continuity of service and 40% back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 मार्च, 2015

का.आ. 502.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन आयल कारपोरेशन लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 115/05) को प्रकाशित करती है जो केन्द्रीय सरकार को 2/3/2015 को प्राप्त हुआ था।

[सं० एल-29015/2/2005-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D.No.115/05) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 2/3/2015.

[No. L-29015/2/2005-IR(M)]

JOHN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/115/05

Shri Kanhaiya Lal Solanki,
S/o Shri Devendra Solanki,
R/o Sakoor Ka Bagicha, Hanuman Colony,
Guna Distt. Guna (MP)

Workman

Versus

Manager/Deputy Manager,
Indian Oil Corporation Ltd.,
Khandwa Depot,
Khandwa (MP)

Management

AWARD

Passed on this 30th day of January, 2015

1. As per letter dated 14-10-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-29015/2/2005-IR(M). The dispute under reference relates to:

"Whether the industrial dispute raised by Shri Kanhaiyalal Solanki against the management of IOCL

Depot, Khandwa in termination his services *w.e.f.* 5-8-98 is justified? If not, to what relief Shri Kanhaiyalal Solanki is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was working as Security Supervisor with IInd party from 20-6-93. His services were discontinued without notice from 4-8-98. Asstt. Manager had issued letter using the work released discontinuing his service. Workman submits that he completed more than 240 days continuous service during each of the year 93 to 98. His services are terminated without notice. He was not paid retrenchment compensation. He was not paid pay in lieu of notice. Termination of his service is illegal. On such ground, he prays for reinstatement with back wages.

3. IInd party filed Written Statement opposing the relief claimed by workman. IInd party denied that workman was appointed by it as Security Supervisor. It is submitted that the workman was rendering services as security Supervisor through contractor. That the contractor Mr. Ravi Security Organisation was engaged for 3 years, Rai services for 3 months. IInd party denies employer employee relationship. Workman is not entitled to notice. He was not terminated by IInd party. The workman was discontinued by contractor. Therefore the letter of release was issued by Officer. The contractors were sponsored from DGR. In absence of employer employee relationship, provisions of ID Act would not be involved. The claim of Ist party workman suffers from mis-joinder of parties. The claim is not tenable. On such ground, IInd party prays that reference be answered in its favour.

4. Workman filed rejoinder reiterating its contentions in statement of claim.

5. Management filed reply to the rejoinder reiterating its contentions in Written Statement.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the action of the management of IOCL Depot, Khandwa in terminating services of Shri Kanhaiyalal Solanki by <i>w.e.f.</i> 5-8-98 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. The dispute is raised by workman challenging termination of his services by IInd party. Workman filed affidavit of his evidence. Workman has stated that he was working with IInd party from 20-6-93 at Khandwa Depot as

Security Supervisor as referred to the experience certificate issued by the officers. That his services were terminated from 4-8-98. In his cross-examination workman says on 20-6-93, he was appointed at Bhopal. He did not recollect name of the employer. Appointment letter was given to him by IOCL. That before resuming work at Khandwa, he attended interview. Some questions were asked to him, he denied that he was engaged by contractors. He also denied that he did not work as clerk. That his salary was paid by IOCL. He denied that he filed fake certificate.

8. Management's witness Praveen Kumar Srivastava filed affidavit of his evidence supporting contentions of management that workman was engaged through contractor. In his cross-examination, witness says he was not working with IOCL in 1993. There was no post of Security Supervisor with IInd party. Work of Security was entrusted to Security contractors. Management's witness claims ignorance whether the scheme of employment through contractor was introduced. But the scheme was very old. The names of 3 contractors are given in Para-1 of the affidavit. Any document in that regard is not produced. Thus witness of management is exposed workman was engaged through contractor, any document is not produced. Therefore the contentions of management cannot be accepted. Management's witness has stated that the experience certificate issued in favour of workman. The officers had no authority which shows that workman was working on establishment of IInd party. The defence of IInd party that workman was engaged through contractor is not substantiated by any documents therefore it is clear that when workman was working on establishment of IInd party and document regarding contractor is not produced, he becomes employee of IInd party. The services of workman are terminated without notice, no retrenchment compensation is paid. The termination of services of workman is in violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No. 1 in Negative.

9. Point No.2- in view of my finding in Point No.1, services of 1st party are terminated in violation of Section 25-F of ID Act, question arises whether workman is entitled for reinstatement with back wages. The evidence on record shows workman was working from 1992 to 1998 for about 4 years 8 months. There is no evidence that workman was selected following recruitment procedure. Relief of reinstatement with backwages would not be justified. Considering period of working days, compensation Rs. One Lakh would be appropriate. Accordingly, I record my finding in Point No. 2.

10. In the result, award is passed as under:-

- (1) The action of the management of IOCL Depot, Khandwa in terminating services of Shri Kanhaiyalal Solanki by *w.e.f.* 5-8-98 is not proper and legal.

- (2) IInd party is directed to pay compensation Rs. One Lakh to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 मार्च, 2015

का.आ. 503.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम० पी० स्टेट माइनिंग कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 133/96) प्रकाशित करती हैं जो केन्द्रीय सरकार को 2/3/2015 को प्राप्त हुआ था।

[सं० एल-29012/8/96-आईआर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 503.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No.133/96) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MP State Mining Corporation Limited and their workman, which was received by the Central Government on 2/3/2015.

[No. L-29012/8/96-IR (M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/133/96

Branch Secretary,
MP State Mining Corporation Karmchari Sangh,
Nayapara, Jagdalpur Workman/Union

Versus

Managing Director,
MP State Mining Corporation Ltd.,
E-5/14, Arera Colony,
Ravindra Nagar,
Bhopal.

Management

AWARD

Passed on this 29th day of January, 2015

1. As per letter dated 31-5-96 by the Government of India, Ministry/of Labour, New Delhi, the reference is

received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-29012/8/96-IR(Misc). The dispute under reference relates to:

"Whether the action of the management of M.P.State Mining Corporation Ltd., Bhopal in terminating the services of Shri Devendra Pratap Bahadur Singh, Ex-Supervisor is justified? If not, to what relief is he entitled to?"

2. After receiving reference, notices were issued to the parties. On behalf of 1st party workman statement of claim is submitted by Secretary, MP State Mining Corporation at page 2/1 to 2/5. Case of workman is that he was appointed as watchman as per order dated 1-11-85 at Jagdalpur Office of IInd party Corporation. That co-employees working with him were regularized and made permanent by the corporation. 1st party workman was picked out and his services were put to end. It is further submitted that workman was suspended on vague allegation that there was shortage of tin ore of Pushpal camp. The suspension order was silent who were responsible for the alleged shortage and how workman was responsible for it. Officer incharge Shri Sanju was suspended. DE was held against him, officer was exonerated with all charges. His suspension was revoked. Workman was suspended as per order dated 12-4-89. No chargesheet was issued to him. Any enquiry was not conducted against him. vide order dated 19-5-89, he was reinstated in service.

3. Workman submits that his service record was unblemished. There was no complaint against him, any enquiry was not conducted about misconduct on his part. His services were discontinued from 25-5-89 just after six days of his reinstatement. He was removed from service. That no watchman is available in office at Jagdalpur where workman was posted. The post is vacant. His appointment was on regular basis. It is submitted that retrenchment of workman is unwarranted when post of waterman was lying vacant. The services of workman could not be discontinued unless any misconduct is committed by him proved in the enquiry. The order of removal of workman is high hands. Higher authorities are playing with his career. Action of IInd party is illegal, arbitrary. Notice of retrenchment was not issued to him. he was not paid retrenchment compensation or pay in lieu of notice that junior employees are regularized and his services are discontinued illegally. On such ground, it is prayed that workman be reinstated with back wages.

4. Application for impleading Chhattisgarh Mineral Development Corporation was submitted on 9-5-05 by counsel for management. It appears said application was rejected. Written Statement filed by IInd party at Page 15 is devoted on the point that 1st party workman was working at Jagdalpur office of MP State Mining Corporation. After bifurcation of State, the area covers under State of Chhattisgarh. MP State Mining corporation is bifurcated.

Area comes under Chhattisgarh Mineral Development Corporation. Workman can pray relief from Chhattisgarh Mineral Development Corporation.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|--|---------------------|
| (i) | Whether the action of the management of M.P.State Mining Corporation Ltd., Bhopal in terminating the services of Shri Devendra Pratap Bahadur Singh, Ex-Supervisor is justified? | In Negative |
| (ii) | If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is challenging termination of his service/removal from service without enquiry or notice. That Junior co-employees are regularized and he was picked up for removal from service. IInd party in its Written Statement has contented that after bifurcation of MP State, workman may claim relief from Chhattisgarh Mineral Development Corporation.

7. As per ordersheet dated 24-7-2012, it is noticed that Chhattisgarh Mineral Development Corporation is not present even after notice and as such proceeded exparte.

8. Management despite of repeated chances did not adduce any evidence. Evidence of management is closed on 24-6-2014. Workman has filed affidavit of his evidence. Workman has stated that he was appointed as watchman at Jagdalpur office as per order dated 1-11-85. He was terminated from service without issuing chargesheet or conducting enquiry. No notice was issued to him, his services were terminated within six months of his reinstatement revoking order of his suspension. His services were discontinued on ground that his services were not required. Workman has produced documents Exhibit W-1 to W-3. Termination order is also produced on record. In his cross-examination by Advocate Srivastava, workman says he was working as watchman at Village Pushpal. He was not doing digging work. In the year 2000, MP State was bifurcated and new state of Chhattisgarh was established. At the same time Chhattisgarh Mineral Development Corporation was established, Jagdalpur Area falls in the area of said Corporation. Officer had orally directed him to work under Corporation. He was working in Chhattisgarh Mineral Development Corporation. IInd party did not participate in reference proceeding. Workman was not cross-examined. Management has not adduced any evidence.

9. Copy of Madhya Pradesh Re-organization Act 2000 is produced at Exhibit W-5 in Case No- R/132/96.

Section 82 provides- where immediately before the appointed day, the existing State of Madhya Pradesh is a party to any legal proceedings w.r.t. any property, rights or liabilities subject to apportionment between the states of Madhya Pradesh and Chhattisgarh under this Act, the State, of Madhya Pradesh or Chhattisgarh which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Madhya Pradesh or added as a party to those proceedings and the proceedings may continue accordingly.

In present case, notice was issued to Chhattisgarh Mineral Development Corporation. However it failed to appear and he has been proceeded exparte. Chhattisgarh Mineral Development Corporation failed to participate in reference proceeding. I find no reason to disbelieve unchallenged evidence of workman, his services are terminated without notice, without issuing chargesheet. Therefore I record my finding in Point No. 1 in Negative.

10. Point No.2- In view of my finding in Point No.1 termination of services of workman is illegal, question arises whether he is entitled to reinstatement with backwages. The unchallenged evidence of workman is his services are terminated and employees junior to him are continued in service. His affidavit is silent about his gainful employment. Considering above aspects, termination from service as per order dated 25-5-89, workman cannot be allowed full backwages. In my considered view, reinstatement of workman with 40 % backwages would be appropriate. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:—

- (1) The action of the management of MP State Mining Corporation Ltd., Bhopal in terminating the services of Shri Devendra Pratap Bahadur Singh, Ex-Supervisor is illegal.
- (2) IInd party No.2 Chhattisgarh Mineral Development Corporation is directed to reinstate workman with continuity of service and 40 % back wages.

R.B. PATLE, Presiding Officer

नई दिल्ली, 10 मार्च, 2015

का.आ. 504.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोटक महिंदा ओल्ड म्यूच्युअल लाइफ इन्श्युरेन्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एवं श्रम न्यायालय 1, मुम्बई के पंचाट (संदर्भ संख्या 20/2014) को प्रकाशित करती हैं जो केन्द्रीय सरकार को 2/3/2015 को प्राप्त हुआ था।

[सं एल-17012/31/2014-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 10th March, 2015

S.O. 504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No.20/2014) of the Central Government Industrial Tribunal/Labour Court 1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kotak Mahindra Old Mutual Life Insurance Limited and their workman, which was received by the Central Government on 2/3/2015.

[No. L-17012/31/2014-IR(M)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

JUSTICE S. P. MEHROTRA

Presiding Officer

REFERENCE NO. CGIT-1/20 OF 2014

Parties: Employers in relation to the management of
Kotak Mahindra Old Mutual Life Insurance. Ltd.

and

Their workman

Appearances:

For the first party/Management: Mr. Jayesh Patil
Representative

For the second party workman: None present.
State : Maharashtra

Mumbai, dated the 2nd day of February, 2015

AWARD

1. The present Reference has been made by the Central Government by its order dated 6.6.2014 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of Reference as per the Schedule to the said order are as under:

"Whether the demand of workman Sh. Kalpesh Domadia for reinstatement with continuity of service with full wages for the period from 6.12.2012 to till date of reinstatement with all order benefits from the management of M/s. Kotak Mahindra Old Mutual Life Insurance Ltd. is legal and justified? what relief the workman is entitled to?"

2. By the order dated 30.6.2014, notice was directed to be issued to the parties fixing 8.8.2014.

3. On 8.8.2014, when the case was taken up, it was noted that the notice issued to the first party/Management and the notice issued to the second party/Workman by Registered Post AD had been duly served, and the respective Acknowledgement Cards had been received back. On the said date, *i.e.* 8.8.2014 Ms. Vishwala Raut Desai, Manager (Human Resource Department), M/s. Kotak Mahindra Old Mutual Life Insurance Ltd. was present for the first party/Management. However, despite service of notice, none was present for the second party/Workman.

In the circumstances, by the order dated 8.8.2014, the case was adjourned and 22.9.2014 for filing Statement of Claim.

On 22.9.2014, Representative for the first party/Management was present. However, none was present for the second party/Workman. In the circumstances, by the order dated 22.9.2014, the case was adjourned and fixed for 17.11.2014 for filing Statement of Claim.

6. On 17.11.2014, Representative for the first party/Management was present. However, none was present on behalf of the second party/Workman. In the circumstances, by the order dated 17.11.2014, the case was adjourned and fixed for 12.1.2015 for filing Statement of Claim.

7. On 12.1.2015 again, Representative for the first party/Management was present. However, none was present on behalf of the second party/Workman. In the circumstances, by the order dated 12.1.2015, the case was adjourned and fixed for 2.2.2015 for filing Statement of Claim.

8. Pursuant to the order 12.1.2015, the case is put up today.

9. Shri Jayesh Patil, Manager - Human Resources (Compliance) is present for the first party/Management. However, none is present for the second party/Workman.

10. From the above narration of facts, it is evident that despite service of notice on the second party/Workman, none has been appearing on behalf of the second party/Workman on any of the dates fixed in the matter. Today also, none is present on behalf of the second party/Workman. No Statement of Claim has so far been filed on behalf of the second party/Workman.

11. Therefore, there is no pleading or evidence filed on behalf of the second party/Workman in support of the claim as contained in the above Reference. No relief can, therefore, be granted to the second party/Workman.

12. The Reference is, therefore, answered by stating that no relief can be granted to the second party/Workman.

13. Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 11 मार्च, 2015

का.आ. 505.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम प्रोजेक्ट WCL भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एल सी/आर 8/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/03/2015 को प्राप्त हुआ था।

[सं. एल-40012/232/94-आईआर (डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th March, 2015

S.O. 505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/8/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom Project, WCL, Bhopal and their workman, which was received by the Central Government on 10/03/2015.

[No. L-40012/232/94-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/8/96

Shri Bhimachandra Patel,
S/o Karuji Patel,
Gangu Sahu,
Taj Chowk,
Tetibandh,
Distt. Raipur (CG)

... Workman

Versus

Director,
Telecom Project, WCL,
Ist Floor, F Block,
GTB Complex, T.T. Nagar,
Bhopal.

... Management

AWARD

Passed on this 9th day of February 2015

As per letter dated 27-28/12/95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/232/94-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Coaxial Cable Project of Deptt. of Telecommunication

through Divisional Engineer, Coaxial Cable Project, Shankernagar, Raipur in terminating the services of Shri Bhim Chandra Patel w.e.f. 31-12-90 is lawful and justified? If not to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 15 to 19. Case of Ist party is that he was working with IInd party at cable work site from 1-11-87 to 31-12-97. He was working under Asstt. Engineer Project. He was digging, trenching, laying cables. Identity Card was issued to him by Asstt. Engineer, Coaxial Project, Shankar Nagar, Raipur. On 1-1-1991, he was orally terminated. He was not paid retrenchment compensation. He repeatedly approached management of IInd party for employment. He was given assurances that he was not taken on work under the guise of approval was not received from superior officers. The other employees similarly working with Ist party are regularized namely Ramesh Avsare, Ramdayal, Daud Khan, Tejram Sahare. Workman was not taken on work despite he worked with devotion, workman, was discontinued. He is unemployed. On such grounds, workman is praying for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at page 27 to 29 denying claim of workman. It is denied that workman was appointed by management on 1-11-87. As per IInd workman was engaged purely on temporary basis by DET, Raipur for execution of co-axial cable, trenching etc. It is denied that management had given assurance to reinstate workman, it is denied that Shri Daud Khan and Tejram Sahare were absorbed by IInd party. Those two labours were absorbed as per order passed by CAT Jabalpur in OA No. 71/91, 196/190 dated 28-3-96 and 6-9-95. Workman did not approach CAT, Jabalpur. He approached before ALC in 1996 after disposal of OA by CAT. It is submitted that workman was served with notice of retrenchment and retrenchment compensation was paid to him. that no muster roll showing payment to workman is available with management.

4. Workman submitted rejoinder at Page 45 to 47 reiterating his contentions in Statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the action of the management of Coaxial Cable Project of Deptt. of Telecommunication through Divisional Engineer, Coaxial Cable Project, Shankernagar, Raipur in terminating the services of Shri Bhim Chandra Patel w.e.f. 31-12-90 is lawful and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is challenging termination of this services on ground that he was not paid retrenchment compensation. His services were orally terminated despite he was continuously working from 1-11-87 to 31-12-90. IInd party submits that workman was engaged temporarily as casual employee. He was not continuously working. Workman was issued notice of retrenchment on 7-1-91 and compensation Rs. 1073/- was paid to him. Workman filed affidavit of his evidence covering his material contentions in statement of claim. That he was continuously working from 1-11-87 to 31-12-90. He worked more than 240 days during each of the calendar year. He was doing work of trenching and laying cables. Identity Card was issued to him by Asstt. Engineer of Coaxial Project. His services were orally terminated from 7-1-91. He was not paid retrenchment compensation. He was given assurance of reinstatement. That the matter was under consideration at higher level. That Shri Ramesh and Dulchand and workman were not reinstated, Shri Daud Khan and Tejram Sahare were regularized. The evidence of workman remained unchallenged. IInd party has not adduced any evidence despite repeated chances granted. Copy of order passed in OA 71/93 before CAT is produced. CAT had directed department to scrutinize the matter from record within two months from the date of order and if the applications are put in sufficient number of years of service, they shall be considered for being confer of temporary status and if found eligible for regularization, their service may be regularized in terms of the decision in the case of Dhanirman Tiwari and others versus Union of India OA 411 of 1990 decided on 28-8-95. The copy of application OA No. 74/91 is produced on record. it shows that said application was filed by 30 employees including Daud Khan. Copy of Judgement in OA No. 196/90 is produced. In Para-4 of the judgment, it was observed that termination of services of applicant was set aside. Applicant shall be accommodated against the vacancies available. Since the applicants have not put in any work during the period 1990 to the date of this judgment they shall not be entitled to any back wages. Said application was filed by 13 employees including Tejram, Daudram. All of those employees are absorbed by IInd party. No evidence is adduced by IInd party in present matter about the working days of workman. I find no reason to disbelieve unchallenged evidence of workman that he was continuously working from 1-11-87 to 31-12-90. When employees in OA 71/91 and 196/90 are absorbed absolutely no reason is submitted by management for denying absorption to Ist party workman, action of the management is illegal. Though IInd party has pleaded that workman was served with notice and retrenchment compensation was paid, no evidence is produced in that regard. Therefore I record my finding in Point No. 1 in Negative.

7. **Point No. 2-** The termination of services of workman is illegal for violation of Section 25-F of ID Act. Employees

in OA 196/90 and 76/91 are absorbed, the denial of absorption to workman cannot be justified. There fore workman deserves reinstatement with 40% back wages. The backwages shall be payable from the date of order of reference i.e. 28-12-95. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under:—

- (1) The action of the management of Coaxial Cable Project of Deptt. of Telecommunication through Divisional Engineer, Coaxial Cable Project, Shankernagar, Raipur in terminating the services of Shri Bhim Chandra Patel w.e.f. 31-12-90 is not legal.
- (2) IInd party is directed to reinstate workman with continuity of service. Workman is also entitled to 40% back wages from date of order of reference.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 मार्च, 2015

का.आ. 506.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम डिपार्टमेंट, उज्जैन के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एल सी/आर 3/94) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/03/2015 को प्राप्त हुआ था।

[सं. एल-40012/145/92-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th March, 2015

S.O. 506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/3/94) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom Department, Ujjain and their workman, which was received by the Central Government on 10/03/2015.

[No. L-40012/145/92-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/3/94

Shri Devi Singh,
S/o Shri Bhanwar Singh,
Prakash Nagar Colony,
Near Rani Mandir
PO Nagda, Distt. Ujjain.

... Workman

Versus

The S.D.O. (Telegraph).
Telecom Department,
Ujjain

... Management

AWARD

Passed on this 13th day of February 2015

1. As per letter dated 10-1-94 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/145/92-IR(DU). The dispute under reference relates to:

"Whether the action of the SDP (Telegraph), Telecom Department, Ujjain in retrenching the services of Shri Devisingh, s/o Bhanvarsingh, ex-casual labour w.e.f. 1-1-1989 is justified? If not, what relief the workman concerned is entitled to and from what date?"

2. After receiving reference, notices were issued to the parties, Workman submitted statement of claim at page 2/1 to 2/5. Case of workman is that he was working as unskilled labor under Sub Divisional Office of Telephones from January 1986. He was continuously working till termination of his service in Sept 1987. He was again engaged by IInd party in February 1988. His services were discontinued in May 1988. Again he was taken in service in October 1988. He was continuously working till 1989. Workman submits that his services are terminated as per letter dated 30-9-89 at the end of the month. Termination of his service from 1-11-89 is illegal for violation of Section 25-F of ID Act. He had completed 240 days services. He was not paid retrenchment compensation. Termination notice was not issued to him, after termination of his service, other person was engaged by IInd party. Section 25G was not complied. On such contentions, workman prays for his reinstatement with back wages.

3. It appears that IInd part had submitted objection about tenability of reference at Page 6/1. The contention of IInd party that postal department is discharging sovereign functions of State, it is not an industry. That workman in Telephone department is holding civil post and not a workman therefore is not entitled to remedies under ID Act. Therefore referencer is not tenable.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|-------|--|---------------------|
| (i) | Whether the establishment of IInd party is covered as an Industry? | In Affirmative |
| (ii) | Whether the action of the SDP (Telegraph), Telecom Department, Ujjain in retrenching the services of Shri Devisingh, s/o Bhanvarsingh, ex-casual labour w.e.f. 1-1-1989 is justified | In Negative |
| (iii) | If not, what relief the workman is entitled to?" | As per final order. |

REASONS

5. Though IInd party has contented that it is discharging sovereign functions of Government, Ist party workman is not covered under Section 2(s) of ID Act as workman, the affidavit of evidence filed by IInd party of Shri S.N. Panse is silent what kind of sovereign functions is carried by IInd party. Above point was not perused by learned counsel for IInd party Shri R.S. Khare, there is no dispute that workman was intermittently engaged as casual unskilled labor. Management's witness in his affidavit of evidence has stated that workman was engaged as casual labor unskilled; from 15-1-86. He was terminated issuing one months notice dated 17-7-87. Again workman was employed from 11-1-88. Workman was terminated, he was paid retrenchment compensation Rs. 2150/- vide Money order No. 1721 to 1723 dated 7.6.90. The casual labor is covered under Section 2(s) of ID Act. In absence of evidence by management's witness what sovereign functions IInd party was discharging, I hold that establishment of IInd party is covered as an Industry under Section 2(j) of ID Act. My finding on Issue No. 1 is in Affirmative.

6. **Point No. 2**—Workman filed affidavit of his evidence supporting contentions in statement of claim that initially he was engaged from January 1986. His services were terminated in September 87. He was re-engaged in February 1988 and discontinued in May 1988. Workman was re-engaged in October 88 and terminated in October 1989. During above scale of period, he was continuously working. That he worked for 240 days preceding 12 months of termination of his service. In his cross-examination, workman says he was interviewed. Appointment letter was not given to him, his name was not sponsored through Employment Exchange. He was doing work of laying cable lines. He denies that work he was doing has ended,

7. Management's witness Shri S.N. Panse in his affidavit of evidence has stated that workman was engaged as casual labor from 15-1-1986. His services were terminated by giving notice dated 17-7-87. His service were terminated from 17-8-87. Workman was engaged temporarily for laying cables on conditions. Letter dated 11-1-88 is relied. Management's witness says in affidavit that workman was paid retrenchment compensation Rs. 2150/- vide Money

order No. 1721 to 1723 dated 7-6-90. Witness of management in his cross-examination says at the time of termination of service of workman, one months pay was not paid to him. Retrenchment compensation was also not paid. He denied that workman completed 240 days service during preceding 12 months of his termination. That any documents are not produced. The documents are available in office. The witness of management was unable to tell reasons by documents were not produced. As management failed to produce documents about working days of workman, the evidence of workman deserves to be accepted that he completed 240 days continuous service preceding 12 months of termination. He was not served with notice. Management has failed to produce documents about payment of retrenchment compensation by Money Order. Therefore termination of service of workman is in violation of Section 25-F of ID Act.

8. Learned counsel for IInd party Shri R.S. Khare relied on ratio held in

"Case of Tata Iron and Steel Company Ltd versus state of Jharkhand and others reported in 2014(1) SCC(L&S) 183. Their Lordship held real dispute between parties was not referred. The reference only depicting version of one side, the reference was quashed. It was held further by their Lordship that it is duty of government to make the reference appropriately reflective of real exact nature of dispute between the parties."

In present case, workman has challenged termination of his service. Terms of reference covers said dispute. The ratio alleged in the case has no bearing to the case at hand.

It was further relied in ratio held in case of Batala Coop Sugar Mills Ltd versus Sowaran Singh reported in 2005(8) SCC 481. Their Lordship held burden of proof about completing 240 day continuous service lies on workman.

In present case, evidence of workman is disclosed. Management's witness failed to produce any documents. Workman has discharged the burden of proving completion of 240 days continuous service during October 88 to October 89. The services are terminated without notice, retrenchment is not paid to him. Therefore I record my finding in Point No. 2 in Negative.

9. **Point No. 3**—In view of my finding in Point No. 1, 2 the services of workman is terminated in violation of Section 25-F of ID Act, question arises whether workman is entitled for reinstatement with back wages. Learned counsel for IInd party Shri R.S. Khare relies on ratio held in.

Case of State of Karnataka versus Umadevi reported in 2006(4) SCC-1. Their Lordship dealing with casual labours temporary employees held such employees do not have any right to regular/permanent employment further he added temporary, contractual, casual, adhoc or daily wage public employment must be deemed to be accepted by the

employee concerned fully knowing the nature of it and the consequences flowing from it.

The ratio held in case does not cover the matter to termination of service in violation of Section 25-F of ID Act or relief to be granted for such violation therefore ratio held in the case cannot be beneficially applied to the present case.

Reliance is also placed in case of MP State Agro Industries Development Corporation Ltd and another versus S.C. Pandey reported in 2006(2) SCC-716. Their Lordship held daily wagger does not hold a post as he is not appointed following terms and rules and therefore he does not derive any legal right. Dealing with Section 25-F, their Lordship held to do complete justice, instead of directing reinstatement of services of respondent, appellant employer is directed to pay Rs. 10,000 as compensation.

The facts of present case are not comparable as workman has not been reinstated in service by any order passed earlier. Considering facts and circumstances, workman was working from 1986 to 1989 with certain breaks, compensation Rs. 50,000/- would be appropriate. Accordingly I record my finding in Point No. 3.

10. In the result, award is passed as under:—

- (1) The action of the SDP(Telegraph), Telecom Department, Ujjain in retrenching the services of Shri Devisingh, s/o Bhanvarsingh, ex-casual labour w.e.f. 1-1-1989 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. 50,000/- to the workman.

Amount as per above order shall be paid to workman within 30 day from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realisation.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 मार्च, 2015

का.आ. 507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम डिपार्टमेंट, भोपाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण /श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सीजीआईटी/एलसी/आर/181/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2015 प्राप्त हुआ था।

[सं एल-40011/18/98-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 11th March, 2015

S.O. 507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (I.D. No. CGIT/LC/R/181/99) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Department, Bhopal and their workman, which was received by the Central Government on 10/03/2015.

[No. L-40011/18/98-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/181/99

The President,
Bhartiya Mazdoor Sangh,
Gulabgali, Chunginaka Road,
Gopalpura, Morena (MP)

... Workman/Union

Versus

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
M.P. Circle, Bhopal (MP)
Divisional Engineer (Adm.),
Office of the TDM, Morena

... Management

AWARD

Passed on this 9th day of February 2015

1. As per letter dated 26-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40011/18/98/IR (DU). The dispute under reference relates to:

"Whether the action of the management of Chief General Manager Telecom in terminating the services of Shri Ghanshyam Karan, Shri Vinod Kumar Sharma, Shri Kailash Chandra and Shri Gajendra Singh Savita is legal and justified? If not, to what relief the workmen are entitled?"

2. After receiving reference, notices were issued to the parties. Workman No. 1 to 5 submitted statement of claim at page 6/1 to 6/5. Case of workman is that Ist party No. 1 to 2 were working from 23-9-88, No. 3, 4 from April 89 as Helper. Ist party No. 5 was working from 1-1-1990 as Helper on daily wages. They were paid minimum wages @ rate of minimum wages prescribed in Collector Office. Ist party No. 2 to 5 were working under IInd party No. 1. They were paid wages by the department. IInd party in conciliation proceeding contented that work was carried out through contractor and in certain circumstances payment of wages was directly made. Ist party workman submits that

employees were working for IInd party should be regularized for the work they were carrying. Ist party No. 2 & 5 were not paid wages for December 1996. When they insisted for payment of wages, they were told that the wages will be paid by contractor. It is submitted that IInd party has shown some contractors. Workman claims ignorance about the security contractor engaged by IInd party. They reiterate that they were working with IInd party with motive to end their service, bogus contractor were shown for payment of wages. As Ist party workman were insisting for regularization of their services and direct payment of wages, IInd party got annoyed and orally terminated their services from 1-1-97. The representations submitted by Ist party No. 2 to 5. They were given oral assurance for reinstatement in future. However they were not absorbed by IInd party. It is submitted that services of Ist Party are terminated in violation of Section 25-F, N of ID Act. IInd party had not obtained promotion from Government for retrenchment. 3 months notice is not given to them. On such grounds, workman prays for their reinstatement with back wages.

3. IInd party field Written Statement at Page 9/1 to 9/4. It is submitted by IInd party that claim of workman is not genuine. They were not appointed by IInd party on any post. There is no post of technical helper in IInd party. It is submitted that in 1988, those employees were engaged through contractors for exigencies. Contractor was paying them wages. When wages were not paid properly, IInd party was supervising the payment of proper wages by the contractor. It is denied that IInd party was paying wages through contractor. It is submitted that the contractors were engaged for carrying work. Payment was made to contractor as per the directions. The payment of wages by contractors to the employees is legal. There are no post technical helper in power plant of IInd party. The employees cannot be appointed on such post. Workman did not complete 240 days continuous service at any time. Therefore notice for termination is not required to be given. There cannot be any oral termination of employees in the department. All adverse contentions of workman are denied.

4. Ist party submitted rejoinder at Page 14/2, 14/3 reiterating their contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|-------------|
| (i) Whether the action of the management of Chief General Manager Telecom in terminating the services of Shri Ghanshyam Karan, Shri Vinod Kumar Sharma, Shri Kailash Chandra and Shri Gajendra Singh Savita is legal and justified? | In Negative |
|---|-------------|

- (ii) If not, what relief the workman is entitled to?" As per final orders.

REASONS

6. The terms of reference does not include Ist party No. 1 Ganesh Ram Sharma. It appears to be impleaded in statement of claim as President of Union. Ist party workman No. 2 to 5 are challenged termination of their services for violation of Section 25-F, N of ID Act. All of them are claiming that they have completed 240 days continuous service during their respective period of their engagement. Identical affidavit of their evidence are filed supporting their claim in statement of claim. Ist party workman No. 2 to 5 are challenging termination of their services for violation of Section 25-F, N of ID Act. All of them are claiming that they have completed 240 days continuous service during their respective period of their engagement. Identical affidavit of their evidence are filed supporting their claim in statement of claim. Ist party No. 2 Ghansham stated that he was engaged on daily wages from 23-9-88. Kailash Sharma was engaged from April 89, Vinod from April 89, Gajendra Singh from 1-1-90 on daily wage basis. All of them claims to have completed more than 240 days continuous service during each of the year of their engagement. Their services were orally terminated. That they were directly paid wages. They were not engaged by contractor. Ghansham in his cross-examination says he had not received I Card, no chargesheet was served on him he was paid Rs. 1500/- per month increased time to time. He was paid monthly wages. He was not discontinued from service. The time of his attending duty was mentioned in the log book signed by him, he was working on daily wages. He was paid wages for his working days. Vinod Kumar Sharma, Gajendra Singh Savita and Kailash Singh Sharma have deposed similar in their cross-examination. Management's witness Sunil Kumar Jain filed affidavit covering contentions of IInd party that those workman were engaged by contractor. The contractor was paying their wages. There was no question of issuing notice terminating their services. Management's witness did not even present for cross-examination. His evidence was closed. As witness of management failed to remain present for cross-examination, his evidence cannot be relied. I do not find reason to disbelieve evidence of Ist party No. 2 to 5. Their services are orally terminated in violation of Section 25-F, N of ID Act. Therefore I record my finding in Point No. 1.

7. Point No. 2—In view of my finding in Point No. 1, termination of services of workman is illegal, evidence of Ist party workman No. 2 to 5 shows that they were engaged on daily wages. IInd party submits that there is not post of technical Helper in its establishment. Workmen No. 2 to 5 were not appointed following selection process. They were working on daily wages. Question arises whether they are entitled for reinstatement with back wages. On above point, learned counsel for workman Shri P. Choubey relies on ratio held in

"Case between Bhuvnesh Kumar Dwivedi versus Hindalco Industries Ltd. reported in 2014 Legal Eagle (SC) 317. Their Lordship dealing with the brief period of contracts with the respondent and finally terminating the services of workman from 27-7-98 observed very interestingly the periods of service extends to close to 6 years save the artificial breaks made by the respondents with an oblique motive so as to retain the appellant as a temporary worker and deprive the appellant of his statutory right of permanent worker status. The aforesaid conduct of the respondent perpetuates unfair labour practice as defined under Section 2(ra) of I.D. Act which is not permissible in view of Section 25 T, 25 U of ID Act read with SI. No. 10 of Schedule V of I.D. Act. Dealing with the question of reliefs to be granted, their Lordship held that termination of service of the appellant amounts to retrenchment in the light of the principle laid down by three judge bench decision of this Court in State Bank of India versus Shri N. Sundara Money AIR 1976-SC-1111 and attracts provision of Section 6-N of UP ID Act and also on the basis of legal principle laid down by this Court, we hold that the termination of service of the appellant was illegal and void ab initio. For issue of back wages to be awarded, it has been held by this Court in case of Shivnandan Mahto versus State of Bihar 2013(11) SCC 626 that if a workman is kept out of service due to fault or mistake of the establishment/ company he was working in, then the workman is entitled to full back wages for the period he was illegally kept out of service. On the basis of legal principle laid down by this court in the Deepali Gundu Surwase Case, the submission of the respondent that the appellant did not aver in his plaint of not being employed, does not hold since the burden of proof that the appellant is gainfully employed post termination of his service is on the respondent. The claim of the respondent that the appellant is gainfully employed somewhere is vague and cannot be considered and accepted. Therefore we hold that the appellant is entitled to full back wages from the date of termination of his service till the date of his reinstatement."

Next reliance is placed in case of State of Gujarat Versus Karsanbhai Jesang by Gujarat High Court. Reinstatement of workman was directed with 20% back wages by Labour court was modified to full back wages from date of award in his actual reinstatement.

In both the judgements relied by learned counsel for workman, the point that workmen were engaged on daily wages was not under consideration.

8. Learned counsel for IInd party Mrs Suman Pandey relies on ratio held in

Case of Ashwani Kumar and others versus State of Bihar and others reported in 1997(2) SCC-1. Their Lordship considering resolution of Bihar Government in Health Deptt. dated 25-3-83 in respect of recruitment to Class-III and Class-IV posts under TB programme superseded only the previous orders relating to the constitution of the Recruitment Committee and not the orders relating to recruitment procedure. Recruitment process-omission to follow prescribed procedure. Their Lordship further held candidates appointed in unauthorized manner and against no existing vacancies-confirmation or regularization of such appointees held a nullity hence cannot give protection against future termination of service. Any training given to such appointees under the directions of the Govt. would not improve their case."

The facts of above case are entirely different. The engagement of workman was on daily wages and there was no question of violation of any Govt. resolution. The ratio cannot be applied to present case at hand.

Next reliance by counsel for IInd party in Secretary, State of Karnataka and others versus Umadevi and others reported in 2006(4) SCC-1. In above cited case, the relief in case of violation of Section 25-F was not under consideration of their Lordship as in present case. Therefore ratio cannot be applied to case at hand.

Incidentally ratio held by Apex Court in Case of Assistance Engineer, Rajasthan Development Corporation and another versus Gitam Singh reported in 2013(2)SCC(L&S)369 may be considered. Their Lordship dealing with Section 25-F & 11-A-daily rated workers wrongful termination. The relief of compensation and reinstatement to be granted. Distinction should be drawn between daily rated worker and worker holding regular post. Services of daily wagger who worked for short period of 240 days only terminated by appellant employer in 1991 in contravention of Section 25-F. Labour Court directed reinstatement with 25% back wages. Their Lordship held exercise of judicium suffers from serious infirmity.

Their lordship held compensation Rs. 50,000 would meet ends of justice. In present case, workmen were working on daily wages during 88 to 96 & Ist party workman No. 5 from 90 to 96. In my considered view, considering the length of working period, compensation Rs. 1 Lakh to Ist party No. 2 to 5 is appropriate. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) The action of the management of Chief General Manager Telecom in terminating the services of Shri Ghanshyam Karan, Shri Vinod Kumar Sharma, Shri Kailash Chandra and Shri Gajendra Singh Savita is not legal.

- (2) IInd party is directed to pay Rs. 1 Lakh to Ist party No. 2 to 5 each workmen within 30 days of publication of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अरुनाकुलम के पंचाट (संदर्भ संख्या 27/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/03/2015 प्राप्त हुआ था।

[सं एल-41011/08/2013-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 27/2013) of the ERNAKULAM as shown in the Annexure, in the industrial dispute between the management of Southern Railway and their workmen, received by the Central Government on 12/03/2015.

[No. L-41011/08/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri D. Sreevallabhan, B.Sc., LL.B, Presiding Officer
(Friday the 27th day of February, 2015/8th Phalguna, 1936)

ID 27/2013

Union : Shri Robert D'Souza, General Secretary
S. Rly Construction Workers Union
H.No. 39/1042
Behind Lakshmi Enterprises
Karakkat Cross Road
Kochi (Kerala)-682016
By Adv. Shri K S Mohamad Hashim

Managements : 1. The General Manager
Southern Railway
Madras Central
Madras (TN)
2. The Executive Engineer
(Constn.)
Southern Railways
P.O., Thanur
Thanur

3. The Divisional Personnel
Officer
Southern Railway
Palakkad

By Adv. Shri P M M Najeed Khan

(Standing Counsel for the Railways)

This case coming up for final hearing on 27.02.2015 and this Tribunal-cum-Labour Court on the same day passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide Order No-L-41011/08/2013-IR(B-I) dated 27.05.2013 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the Management of Southern Railway/Dy Chief Engineer Construction, Podanur in denying the benefits to the 40 workmen who were working as casual labours in the year 1983-84 as per Chapter XIII of the Indian Railway Establishment Manual (Unrevised)? If not, to what relief they are entitled?"

After receipt of summons union entered appearance and filed claim statement with the allegations that the 40 workers whose names and service details are given in the list attached to it had worked as Khalasis under the Inspector of works, Open Line, Southern Railway, Podannur. They had joined the service of the management on various dates in the year 1983. They have completed 120 days' service and thereby acquired temporary status in the year 1983 itself. On acquiring temporary status they are entitled for the benefits provided in Chapter XIII of the Indian Railway Establishment Manual. But they were denied of the benefits for the reason that they were engaged in project works. They were actually engaged in the regular construction wing of Southern Railway and not as casual labourers engaged in projects. The question of casual labourers in project and construction wing of the Southern Railway was already settled by the Hon'ble Supreme Court in AIR 1982 SC 854 and AIR 1993 SC 188. Those workmen were denied of the benefits of those judgements and the same has resulted in this reference. From 1983 onwards union was making demands to grant the benefits to the workmen in terms of Chapter XIII of the Indian Railway Establishment Manual. But the same was not acceded to by the management. Hence the management is to be directed to grant all the benefits as per Chapter XIII of the Indian Railway Establishment Manual to those workers.

4. Managements 1 to 3 entered appearance. But the second management alone filed written statement. The

contentions put forward are that the claim relates back to the year 1983 to 1999 and hence the same is to be treated as stale considering the inordinate delay of about 15 years. Details of the present position of those workers are not furnished by the union for verification. Consequent upon their engagement and later absorption in the regular cadre in Railways they have become regular employees and hence governed by the service rules framed by the appropriate government/Ministry of Railways from time to time. Hence the Central Administrative Tribunals have only got jurisdiction to redress their grievance and this Tribunal has no jurisdiction to deal with the same. Casual labourers other than those engaged in project works will only get temporary status on completion of continuous service of 120 days and will be able to get pay and allowances of temporary class IV railway employees as provided in Chapter XIII of the Indian Railway Establishment Manual (Unrevised). The workmen involved in this dispute have completed 120 days of continuous service on the respective dates shown and hence entitled to those benefits. They were once project casual labourers. Till 1985 the provision for granting of temporary status was available to the open line casual labour only and there was no provision for granting of temporary status to project casual labour. The grievance of the project casual labour was raised before the Apex Court in the year 1985 and during the pendency of the proceedings the Railway Ministry framed a scheme making provision for grant of temporary status to project casual labourers on completion of 360 days of continuous service. The scheme was approved by the Apex Court with modification. The Railway Board had issued directions for implementation of the scheme vide letter dated 11.09.1986. The grant of temporary status as per the above scheme for project casual labourers was settled long back and cannot be reopened. There is no relevance for their claims based on the judgements reported in AIR 1982 SC 854 and AIR 1993 SC 188. There is no merit in the claim of the union or the workmen and hence the same is liable to be dismissed.

5. Union did not file any replication in spite of the opportunity given for that purpose.

6. After posting the case for evidence the union remained continuously absent on all posting dates without adducing any evidence. Management has also not adduced any evidence.

7. The points for determination are:

- i. Whether the claim has become stale?
- ii. Whether this Tribunal has got jurisdiction to entertain the dispute?
- iii. Whether the 40 workmen are entitled to the benefits as per Chapter XIII of the Indian Railway Establishment Manual (Unrevised)?
- iv. Whether they are entitled to any relief?

8. Point No. (i):- From the pleadings itself it is apparent that there is inordinate delay in raising the dispute. It is after a long lapse of time after the framing of the scheme for grant of temporary status to project workers and its implementation the dispute is seen to have been raised by the union. Union has not adduced any evidence to have a satisfactory explanation for the inordinate delay in raising the dispute. Because of the inordinate delay for raising the dispute it can be treated that the claim has become stale.

9. Point No. (ii):- The contention as to lack of jurisdiction is raised by making the plea that the 40 workmen were already absorbed in the regular service in the Railways and they have become regular employees and hence the Central Administrative Tribunals alone have got jurisdiction to redress their grievance. There is no dispute as to the fact that they are workmen engaged as casual labours by the management and the claim is for regularisation by conferring temporary status. There is nothing on record to show that they are already absorbed as regular employees of the management. Even if they are regular employees then also they are to be treated as workmen in the absence of any evidence to prove that they are not workmen as defined under Section 2(s) of the Industrial Disputes Act. They are member of the union which raised the dispute. There is no case that the union has no right to raise the dispute representing those workmen. Hence it can reasonably be held that his tribunal has got jurisdiction to deal with the dispute.

10. Point No. (iii):- There is nothing on record to satisfy that the 40 workmen are entitled to the benefits as per Chapter XIII of the Indian Railway Establishment Manual (Unrevised). Union ought to have adduced evidence to prove that they have fulfilled the conditions for acquiring temporary status. In the absence of any evidence to substantiate the allegations in the claim statement it is not in any way possible to enter into a finding that those workers are entitled to the benefits as per Chapter XIII of the Indian Railway Established Manual (Unrevised). Hence it can only be held that they are not entitled to any such benefit.

11. Point No. (iv):- Since it is found that those workmen are not entitled to the benefits as per Chapter XIII of the Indian Railway Establishment Manual (Unrevised), they are not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

धनबाद के पंचाट संदर्भ संख्या (185/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/3/2015 को प्राप्त हुआ था ।

[सं एल-12012/80/2000-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 509.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 185/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1 Dhanbad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 12/03/2015.

[No. L-12012/80/2000-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act.
1947

Ref. No. 185 of 2000

Employer in relation to the management of State Bank of
India, Muzaffarpur

AND

Their workmen.

Present:- Sri Ranjan Kumar Saran,
Presiding Officer.

Appearances:

For the Employers: Sri S.N. Goswami, Advocate
For the workman: Sri D.K. Verma, Advocate
State: Jharkhand

Industry: Banking
Dated 27/2/2015

AWARD

By Order No. L-12012/80/2000-IR (B-I), dated. 29.06.2000, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of State Bank of India, Patna in terminating the service of the workman on 1st October, 1983 and not considering him for re-employment before appointing fresh hands like Sri Ram Chandra Bhagat, Sri Randir Kumar, Sri Rajesh Kumar Mahto, Sri Arun Kumar Patel,

Sri Sundama Prasad, Sri Bhuneshwar Kumar, Sri Ganesh Thakur and Sri Ram Swarup Rai is justified. If not, to what relief the workman is entitled?

2. This case is received from the Ministry of Labour & Employment on 02.08.2000. After receipt of reference, both parties are noticed. The workman files their written statement on 29.08.2000. The management files their written statement on 16.05.2001. The workman himself examined as WW-1 and two witnesses has been examined on behalf of the management.

3. The short point involved in the reference is that, whether the termination of the workman is just and proper or not. The workman have been terminated by the management without assigning any rhyme or reason.

4. The workman who is a bank employee joined as daily wager prior 1983. But after working for a long period, he claims for regularization, his service was terminated.

5. The workman approached High Court and brought a casual order and as such remained relief less. Again in the year 2000 he brought a reference to this Tribunal, which has been dragged till today.

6. The workman said that he is still job less and his case is not forwarded for consideration or kept under carpet. The workman files series of document that he was working continuously and it was also observed by High Court.

7. Considering the facts and circumstances of this case. This Tribunal orders the workman be taken immediately as daily wager, and be saved starvation and the management is directed to regularize him in any lowest grade within 3 months from the date of publication of the award in Gazetter of India.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 510.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बिलासपुर रायपुर क्षेत्रीय ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट संदर्भ संख्या (162/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/3/2015 को प्राप्त हुआ था।

[सं एल-12012/587/98-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi the 12th March, 2015

S.O. 510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 162/99) of the Cent.Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in

the Annexure, in the industrial dispute between the management of Bilaspur Raipur Kshetriya Gramin Bank and their workmen, received by the Central Government on 12/03/2015.

[No. L-12012/587/98-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/162/99

Shri Deepak Chatterjee,
C/o A. Pathak,
MIG-II, 356, Awadinagar, HUDCO,
Bhilai (CG).

... Workman

Versus

Chairman
Bilaspur Raipur Kshetriya Gramin Bank,
Dayalband,
Bilaspur (MP)

... Management

AWARD

Passed on this 16th day of February, 2015

1. As per letter dated 19-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/587/98-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Bilaspur Raipur Kshetriya Gramin Bank, Bilaspur in terminating the services of Shri Deepak Chatterjee, Ex-cashier of said Bank is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5/1 to 5/5. Case of workman is that he was working as cashier in Bilaspur Raipur Kshetriya Gramin Bank Branch Basoda. Chargesheet was issued to him on 16-1-95 for the allegation that he received amount of Rs. 3805/- from Narayanlal Nishad was not deposited in his account but counterfoil was given. Workman misappropriated the amount. That workman had received Rs. 5000/- from Chaitram for depositing in his Saving Bank Account No. 677. Said amount was not deposited in his account. Workman made overwriting in accounts book. Workman received amount of Rs. 300/- for depositing in cash account was deposited in next month. Counter foil of deposit was given to him. Workman misusing his official authority had taken loan from Bank customers. Workman was absent from duty without prior permission. Workman submitted that enquiry was not properly conducted. Enquiry was deliberately fixed on date. Workman can not submit application. Enquiry was proceeded exparte. That

punishment of dismissal imposed against him was not decided by Chairman. He left meeting and in absence, representative of Govt. decided the appeal is illegal. Workman submits charges are not proved. He prays for reinstatement with back wages.

3. IInd party filed Written Statement at Page 9/1 to 9/14. IInd party submits that there were serious complaints against workman, preliminary inspections were conducted by Bank. Chargesheet were issued to workman. enquiry was conducted. The details of the charges are narrated in Written Statement. Workman remains absent despite of repeated intimation given to him. Workman was given full opportunity for his defence. The charges against workman are proved. Punishment of dismissal from service is proper. Appeal filed by workman was dismissed. The Chairman being Disciplinary Authority did not decide the appeal. All adverse contentions of workman have been denied. It is reiterated that for proved charges, workman has been dismissed from service calls no interference. While conducting enquiry, principles of natural justice were followed.

4. Preliminary issue No. 1 was decided by my predecessor on 21-04-06. Enquiry was found proper and legal.

5. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the misconduct alleged against workman is Proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether the punishment of dismissal imposed against workman is proper and legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. In view of my finding in Issue No. 1, enquiry found proper and legal, question remains whether charges alleged against workman are proved from evidence in Enquiry Proceedings and punishment of dismissal is proper.

7. The statement of witnesses recorded in Enquiry Proceedings is clear that workman had received amount of Rs. 3805/-, Rs. 550/-, Rs. 300/- from customer of the Bank, counter foils were issued and amount were not credited to the respective account holders. The statement of witnesses Pyarelal Sahu, Dhruv Kumar Shukla, Chaitram, Asharam, Rainbati Bai and Nain Kumar Yadav recorded in Enquiry

Proceedings remained unchallenged, Workman failed to participate in Enquiry Proceedings. I find no reason to disbelieve unchallenged evidence of all those witnesses. Their statement are sufficient to prove charges against workman. For above reasons, I record my finding in Point No. 1 in Affirmative.

8. Point No. 2 the charges proved from evidence in Enquiry Proceedings are of serious nature receiving amounts and misappropriated it and taking loan from bank customers, the punishment of dismissal cannot be said excessive. No interference is called for in the order of punishment. I record my finding in Point No. 2 in Affirmative.

9. In the result, award is passed as under:—

(1) The action of the management of Bilaspur Raipur Kshetriya Gramin Bank, Bilaspur in terminating the services of Shri Deepak Chatterjee, Ex-casher of said Bank is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट संदर्भ संख्या (1260/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/03/2015 को प्राप्त हुआ था।

[सं० एल-41012/69/2005-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1260/2006) of the Central Government Industrial Tribunal Cum Labour Court, No. II Chandigarh as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 12/03/2015.

[No. L-41012/69/2005-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 1260/2006

Registered on 14.3.2006

Balbir Kaur, Ex-sweeper, wife of late Sh. Kaka Singh, resident of village Maisar Khana, Tehsil Talwandi Sabo, District Bathinda (Punjab).

... Petitioner

Versus

1. Divisional Personnel Officer, DRM Officer, Northern Railways, New Delhi.
2. Station Master, Northern Railway, Railway Station Maisarkhana, District Bathinda (Punjab).

... Respondents

APPEARANCES

For the workman Ex parte.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 30.1.2015

Central Government *vide* Notification No. L-41012/69/2005-IR (B-I) Dated 24.2.2006, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Northern Railway in terminating the services of Smt. Balbir Kaur w/o Late Sh. Kaka Singh, Ex-Safaiwala *w.e.f.* 17.12.2003 without any notice and payment of retrenchment compensation is legal and justified? If not to what relief the concerned workman is entitled to and from which date?"

In response to the notice, the workman appeared and filed statement of claim pleading that she worked as Safai Karamchhari with the respondent management from 19.7.1986 to 17.12.2003. There were instructions to empanel the employees who have rendered 120 days of service and a screening was done in January, 1995 and the persons junior to the workman were placed in the list for regularization of services, but her name was not considered. She filed an application before the Central Administrative Tribunal which was disposed of *vide* order dated 28.2.2003 with the direction to the respondent management to dispose of her representation. But the management terminated her services on 17.12.2003 in violation of the provisions of Section 25F, 25G and 25H of the Act and she be reinstated in service.

Respondent management filed written reply pleading that workman worked under it as part-time karamchhari on contract basis at the rate of Rs. 5/- per day and she used to work for one-and-a-half hours daily. In view of the orders of the Central Administrative Tribunal, her representation was decided against which she did not prefer any appeal.

She did not approach any court of law and the same has attained finality. That she herself stopped attending her duties and her services were not terminated by the management. Since, she was a part-time daily wage worker, she was not to be paid any retrenchment compensation.

In support of her case, workman appeared in the witness box on 25.7.2007 and at that time the management was *ex parte*. The *ex parte* order was set aside *vide* order dated 25.1.2011 and as such, the said statement recorded on 25.7.2007 is not to be read. Thereafter, workman did not lead any evidence and was proceeded against *ex parte vide* order dated 8.5.2014.

Thus, the workman did not any evidence in support of her case. The management did not lead any evidence.

I have heard Sh. N.K. Zakhmi, counsel for the management.

There is no denial of the fact that the workman worked as Safai Karamchhari with the respondent management from 1.9.1986 to 17.12.2003, but, according to the management, she was engaged on contract and she was doing the work for one-and-a-half hours for Rs. 5/- per day. The workman has never appeared in the witness box to controvert these averments. It is again pleaded by the management that it is the workman who stopped attending to her duties and her services were not terminated. The workman has not stepped into the witness box to rebut these averments and therefore, it cannot be said that her services were terminated by the respondent management. There is no dispute that the service of the part-time daily wage worker comes to an end at the end of the day and the same do not amount to 'retrenchment' and no compensation was to be given to the workman.

In result, it is held that it is not proved that the services of the workman were terminated by the management and she was not entitled to any retrenchment compensation and she is not entitled to any other relief and accordingly the reference is answered against her. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट संदर्भ संख्या (63/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/03/2015 को प्राप्त हुआ था।

[सं. एल-41011/84/2013-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

AWARD

New Delhi, the 12th March, 2015

S.O. 512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 63/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 12/03/2015.

[No. L-41011/84/2013-IR(B-1)]
SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT**

K.B. KATAKE

Presiding Officer

Reference No. CGIT-2/63 of 2013

**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF****WESTERN RAILWAY & ANR**

1. The Chief Workshop Manager
Western Railway
Lower Parel
Mumbai 400 013.
2. The Assistant Sports Officer
Western Railway Sports Association
Old Building, Head Office
Churchgate
Mumbai 400 020.

AND

THEIR WORKMEN.

The General Secretary
Paschim Railway Karmachari Parishad
33, Moti Bhaan, 2nd floor
Dr. D'silva Road
Dadar (W)
Mumbai 400 028.

APPEARANCES:

FOR THE EMPLOYER No. 1: No appearance.

FOR THE EMPLOYER No. 2: Mr. Ajay Apte,
Representative.

FOR THE WORKMEN: No appearance.

Mumbai, dated the 16th February, 2015.

The Government of India, Ministry of Labour & Employment by its Order No. L-41011/84/2013-IR (B-I), dated 24.10.2013 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of management of Western Railway, Mumbai in not giving out of turn promotion/ special increments to Sh. Marathu Pandian, Helper for his sports achievements of winning Silver Medal in 85 Kgs. category at Sr. National Weightlifting Championship held at Vishakhapatnam in December, 2006 is legal, just and proper? To what relief the workman concerned is entitled?

2. After receipt of the reference notice was sent to both the parties. Notice sent to the union and served *vide* Ex-5 and again *vide* Ex-8. Second party remained absent on all dates. Sufficient time was given to them. However neither union remained present nor filed their statement of claim. As the second party union failed to file its statement of claim, the reference deserves to be dismissed for want of prosecution. Thus I proceed to pass the following order:

ORDER

The reference stands dismissed for want of prosecution. No order as to cost.

Date: 16.02.2015

K.B. KATAKE, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट संदर्भ संख्या (46/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/03/2015 को प्राप्त हुआ था।

[सं. एल-12012/31/88-डी-3-(ए).आई आर (बी.1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 46/89) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of Bharatiya State Bank and their workmen, received by the Central Government on 12/03/2015.

[No. L-12012/31/88-D-3-(A) IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE SRI RAM PARKASH, HJS PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR.****Industrial Dispute No. 46 of 89**

Between

Sri Jai Govind Tiwari, C/o Sri V. N. Sekhari,
26/104, Birhana Road,
Kanpur.

And

Chief Regional Manager,
Bhartiya State Bank,
Regional Office,
M.G Marg,
Lucknow.

AWARD

1. Central Government Mol, New Delhi, *vide* notification No. L-12012/31/88-D-3-(A), dated 30.12.88 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of SBI Golagokarannath District Lakhimpur Khiri in dismissing Sri Jai Govind Tiwari, Ex-Guard, with effect from 01.06.84, is legal and justified? If not to what relief the workman is entitled?

3. Brief facts are

4. Admitted facts of the case are that the workman Sri Tiwari was served a charge sheet dated 22.02.82, copy exhibit M.3 on seven counts, which will be reproduced as and when it is required while discussing the findings of the case. The inquiry into the said charge was conducted by an officer of the bank Sri R. Chandra. He gave his finding on 05.01.83, Ext. M-9 is the copy of finding. He held charges number 3, 4, 5 and 7 as proved only. From the inquiry proceedings it appears that the charge number 6 was not pressed at inquiry stage by the representative for the bank. The disciplinary authority by means of his order dated 14.06.83, copy Ext. M-10 agreed with the finding given by the enquiry officer. By means of his said order he imposed the punishment of dismissal from service upon to workman accordingly a show cause notice was issued to the workman Ext. M-11 is the copy of the said letter. Ext. M-12 is the representation moved by the workman against the show cause notice. After considering the recommendation the disciplinary authority finally passed order dated 01.06.83, copy of which is Ext. M-13 and he confirmed the proposed punishment of workman's dismissal from service without notice. However, as regard charge No.5, after considering the submission made by the workman in his representation he held that the said charge stood proved

only up to the extend that the workman reported at the training camp at Kanpur one day later. Against the order of the punishment passed by the disciplinary authority the workman preferred an appeal which was dismissed by the Chief Regional Manager/Appellate authority by means of his order dated 15.10.84 Ext. M-16.

5. The workman's case is that he was appointed as guard in the bank in 1971 and confirmed on the said post in 1973. In March 1979 he was posted at Golagokaran Nath Branch. Since the branch manager of the said branch was annoyed with him with a view to victimize him he issued him the charge sheet in question. According to the workman the charge sheet was not issued by the competent authority. The construction of charge sheet was illegal. The allegations on which he was charged amounted to minor misconduct. He alleges that he was not supplied with the copies of the material documents on which the charges were based. During the inquiry he was not given full opportunity to defend himself. The findings of the inquiry officer were perverse as these were not based on material on record and legal evidence. He further alleges that the punishment of dismissal from service awarded to him was highly disproportionate and excessive when looked into the gravity of charges.

6. He has therefore, prayed that the order of the punishment dated 01.06.84, be set aside and he be reinstated in service with full back wages and consequential benefits.

7. Opposite party has filed with written statement contending that that the workman joined the service as guard on 29.07.73 and confirmed on the said post with effect from 04.03.74. It is stated that while he was posted at Golagokarannath branch he was served with a charge sheet dated 20.2.82. It was valid and it was signed by the competent officer that is the Regional Manager. The charges were specific. The documents were supplied to the workman during the inquiry proceedings which were perused by him. It has been denied that the charges amounted to minor misconduct. It is stated that the inquiry as conducted was by following the principles of natural justice. The workman had fully participated all along in the enquiry and the findings of the enquiry officer were based on legal evidence. The finding of the enquiry officer and the order of the disciplinary authority and appellate authority were based on material on record which was not malafide and the punishment awarded to the workman was quite proportionate having regard to the gravity of the charges.

8. Workman has also filed rejoinder in which nothing new has been pleaded by him.

9. My learned predecessor after giving full opportunity of arguments to the contesting parties and after giving his anxious consideration to the oral as well as documentary

evidence on record gave its award on 21.02.91 by exercising the powers of Section 11-A of the Industrial Disputes Act, 1947, and modified the punishment of dismissal into reinstatement of workman in the service of the bank with stoppage of one annual graded increment with cumulative effect.

10. This award was challenged by the opposite party by filing writ petition No. 17586 of 91, before the Hon'ble High Court, Allahabad. The workman was reinstated in the service of the bank under the interim orders of the Hon'ble High Court passed on 12.05.93, in the said writ petition.

11. It is submitted by the learned authorized representative for the workman that the workman was paid his salary and allowance by the bank under the interim orders of the Hon'ble High Court on the premises as if he was never removed from the service of the bank. It was further contended by the representative for the workman that the workman continued to work as such till the date of his retirement under the interim orders of the Hon'ble High Court. It was also submitted by the authorized representative for the workman that 50% of back wages was deposited by the bank with the Tribunal under the interim orders of the Hon'ble High Court, Allahabad. The above factual position of the case has not been denied by the opposite party bank.

12. It is further submitted by the representative for the workman that the bank also paid to the workman his entire retirement benefits after his retirement from the service of the bank and decided his pension which was continued to be paid to the workman as per rules of the bank.

13. The said writ petition was ultimately decided by the Hon'ble High Court on 27.07.04, wherein the award of the tribunal was set aside and the matter was remanded back to this tribunal for fresh adjudication according to law.

14. After remand of the case by Hon'ble High Court Allahabad vide order 27.07.04, both the parties were afforded adequate opportunities to adduce their evidence in support of their respective case and the tribunal after considering the evidence and material on record of the case found charge No. 5 and 7 respectively proved against the workman and by means of its award dated 04.07.11. The tribunal has further held charge No. 3 as proved against the workman and he was denied the relief as claimed by him. The bank thereafter stopped making payment of pension to the workman.

15. Being aggrieved by the award the workman challenged the award dt. 04.07.11, by filing Civil Misc. Writ Petition No. 10091 of 2013. The said writ petition was finally decided by the Hon'ble High Court vide order dated 26.03.2014. The Hon'ble High Court set aside the award dated 04.07.11 and again remitted the case to this tribunal by observing as under—

In view of the foregoing discussions, the impugned award is set aside only to the extent of quantum of punishment and the matter is remitted back to the tribunal to consider and decide the quantum of punishment to the petitioner in the light of the provisions of section 11-A of the Act, the facts and circumstances of the case and evidence on record the tribunal shall decide the quantum of punishment as expeditiously as possible preferably within a period of two months from the date of certified copy of this order is filed by the petitioner.

16. It may be pointed out that none of the contesting parties have adduced any oral or documentary evidence on the point of quantum of punishment.

17. The authorized representative for the workman *vide* application dated 16.04.2014, paper No. 51/1, has filed original certified copy of the order of the Hon'ble High Court, Allahabad, and upon receipt of the order of the Hon'ble High Court notice was issued to the management for their appearance on 09.06.2014 for hearing in the case.

18. In the mean time the tenure of my predecessor completed on 28.05.2004 and he relinquished the charge of the post of Presiding Officer, of the Tribunal and since then the matter was kept pending till new Presiding Officer of the Tribunal is appointed by the Central Government, Ministry of Labour, New Delhi.

19. I assumed the charge of the post of Presiding Officer, Central Government Industrial Tribunal cum Labour Court, on 20th October, 2014, and heard the arguments of both the parties on 02.12.2014, and reserved the award.

20. During the course of arguments both the parties have confined their arguments only on the point of quantum of punishment as per direction of the Hon'ble High Court of Allahabad.

21. Firstly it has been argued by the authorized representative for the bank that the disciplinary action against an award staff of the management of State Bank of India, are regulated through the provisions by the Desai Award of which para 521 specifically deals with detailed procedure for initiating disciplinary action against an delinquent employee of the bank. It is further submitted that sub para (4) of Para 521 defines the acts of a bank employee that has been termed as gross misconduct by a bank employee. Sub para (e), (f), (j) of sub para (4) of Para 521 of Desai Award enumerates the acts of gross misconduct. On the strength of above provisions it has been vehemently argued by the representative of the management that the acts of misconduct committed by the workman as enumerated in the charge No. 5 and 7 of the charge sheet clearly falls within the scope and ambit of the terms of "Gross Misconduct" as the workman has been found guilty of habitual doing of any act which amounts to "minor misconduct", willful insubordination or disobedience of any lawful and reasonable order of the

management or of a superior and doing any act prejudicial to the interests of the interest of the bank, or gross negligence or negligence involving or likely to involve the bank in serious loss. Therefore, the punishment order passed by the disciplinary authority, upheld by the appellate authority as well as by this tribunal in its award dated 04.07.11, need not to be interfered at the hands of this tribunal as it fully commensurate having regard to the nature misconduct proved against the workman.

22. It has further been argued by the management that sub para (5) of Para 521 of Desai Award further postulates that an employee found guilty of gross misconduct may:

- (a) Be dismissed without notice; or
- (b) Be warned or censured, or have an adverse remark entered against him;
- (c) Be fined; or
- (d) Have his increment stopped;
- (e) Have his misconduct condoned,

23. By referring the above provisions it was again stressed that the punishment of dismissal from service awarded to the workman on the proved misconduct committed by the workman is just and fair.

24. Needless to mention here that on the same analogy, the counsel for the bank has argued before the Hon'ble High Court during the final hearing in writ petition No. 10091 of 2013, but the arguments of the bank were discarded by the hon'ble High Court and the case was remitted by the Hon'ble court to decide the quantum of punishment taking into consideration the gravity of misconduct. Therefore, once the arguments of the management failed before the Hon'ble Court, the same arguments before this tribunal by the management carries no weight in the eye of law and the tribunal of the opinion that there is no merit in the arguments of the bank accordingly the same are rejected.

25. Now the question for determination is as to whether the punishment awarded to the workman on the proved misconduct warrants dismissal of the workman or not.

26. On the above issue, it has been argued by the representative for the workman that after the reinstatement of the workman by the bank under the interim orders of the Hon'ble High Court in writ petition, the workman has not indulged himself in any activities which may constitute or attract the provision of gross misconduct, his past record remained blot less, the nature of charge proved against the workman was not so serious which may warrant penalty of economic death of the workman. The Hon'ble High Court too has expressed the above opinion in its order in the light of charge No. 5 and 7 found proved against the workman. Therefore, it has been submitted by the representative for the workman that the punishment awarded to the workman is quite harsh and it required

modification at the hands of this Tribunal in exercise of powers conferred upon the tribunal under the provisions of section 11-A of Industrial Disputes Act, 1947.

27. The authorized representative for the workman has placed reliance on an un reported decision of the Hon'ble High Court of Allahabad passed in CMWP No. 12549 of 1999 in between State Bank of India, and Anil Kumar Srivastava, on 29.05.2012, wherein the Hon'ble High Court has categorically held that a persual of the award indicates that the charges leveled against the workman are not of grave nature as would lead to dismissal of the workman.

28. As a matter of fact after going through the charges leveled against the workman it would only be a case of carelessness/negligence on the part of the workman, but did not tantamount to misconduct unless the same is done with ill intention.

29. The decision cited by the authorized representative for the workman applies with full swing to the facts and circumstances of the present case as the proved misconduct as it would be a case of carelessness/negligence on the part of the workman because the management has palpably failed to establish that the same is done with ill intention by the workman.

30. On the other hand the representative for the bank has also placed reliance on the decision of Hon'ble Apex Court in the case of Lucknow K Gramin Bank (Now Allahabad U.P. Gramin Bank) and another versus Rajendra Singh. I have considered the law propounded by Hon'ble Apex Court and with due respect I am of the opinion, that the law cited by the management is not applicable to the facts and circumstances of the present case as the service conditions of the petitioner bank are not governed by Desai Award whereas in the instant case workman is governed by the provision as per own showing of the bank by Desai Award. Therefore, the law cited by the bank is of no help to the management.

31. The tribunal considering the arguments of both parties is of the opinion that acts proved against the workman are not of so serious nature that warrants extreme punishment of dismissal from service as disobedience of lawful order of the officers of the bank and remaining absent from the service of the bank, therefore, the tribunal disagree with the punishment awarded to the workman by the disciplinary authority and confirmed by the appellate authority and find that the punishment of dismissal is highly excessive considering the gravity of the proved misconduct and needs modification under section 11-A of Industrial Disputes Act, 1947.

32. Having concluded that the punishment of dismissal is highly excessive as awarded to the workman for proved misconduct. Considering the nature of proved misconduct, the tribunal has given its anxious consideration to the nature of punishment as provided under Desai Award, the

tribunal is of the opinion that if the punishment of stoppage of three increments as provided under rules is awarded to the workman that would meet the ends of justice.

33. Accordingly punishment of dismissal from service awarded to the workman is modified and the workman is punished by way of stoppage of three increments permanently in lieu of dismissal from service.

34. Accordingly it is held that the action of the management of State Bank of India, Golagokaran Nath, District, Lakhimpur Khiri in dismissing Sri Jai Govind Tiwari, Ex-guard with effect from 01.04.1984 is neither legal nor justified. Accordingly the workman is entitled for his reinstatement in the service of the bank with effect from 01.04.1984, with full back wages, seniority and all consequential benefits with stoppage of three increments permanently by way of punishment on proved misconduct.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईईपीसी एपीईएकएसआईएल जीजेईपीसी पीईटीपीओ एण्ड ईएकाआईएम बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकत्ता के पंचाट संदर्भ संख्या (13/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.03.2015 प्राप्त हुआ था।

[सं. एल-12011/99/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 13/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of EEPC, APEXIL, GJEPC, PEPC, ITPO and EXIM Bank and their workmen, received by the Central Government on 12.03.2015

[No. L-12011/99/2013-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 13 of 2014

Parties: Employers in relation to the management of EEPC India (formerly Engineering Export Promotion Council)

and

Their workman

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

on behalf of the: Mr. R. Talukder, Ld. Counsel for
Management EEPC India.

On behalf of the: None

Workmen

State: West Bengal.

Industry: Export

Dated: 3rd March, 2015

AWARD

By Order No. L-12011/99/2013-IR(B-1) dated 12.02.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of EEPC, CAPEXIL, GJEPC, PEPC, ITPO and EXIM Bank is justified for their untied approach for denying minimum wages and other demand to their contractual workman is legal and justified? To what relief the workmen are entitled?"

2. When the case is taken up for hearing today, Ld. Counsel for the EEPC India appears and files an application annexing a copy of the order dated 09.07.2014 passed by the Hon'ble High Court, Calcutta in W.P. 15377(W) of 2014.
3. Perused the order of the Hon'ble Court.
4. It appears from the said order that after hearing both sides the instant order of reference dated 12.02.2014 has been set aside by the Hon'ble Court.
5. In view of the said order of the Hon'ble High Court, Calcutta the instant order of reference is disposed of.

Dated, Kolkata,

The 3rd March, 2015

Justice DIPAK SAHARAY, Presiding Officer

नई दिल्ली, 12 मार्च, 2015

का.आ. 515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार फउरल लि० बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अरुनाकुलम के पंचाट संदर्भ संख्या (11/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.03.2015 को प्राप्त हुआ था।

[सं. एल-12011/47/2010-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2011) of the Ernakulam as show in the Annexure, in the industrial dispute between the management of Federal Bank Ltd. and their workmen, received by the Central Government on 12.03.2015

[No. L-12011/47/2010-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-COURT, ERNAKULAM

Present: Shri D. Sreevallabhan, B.Sc. LL.B. Presiding Officer

(Thursday the 12th day of February, 2015/23rd Magha, 1936)

ID 11/2011

Union : The General Secretary
Federal Bank Employees Union
Central Office
Aluva
Kerala

By Adv. Shri C. Anil Kumar

Management : The Chairman and CEO
Federal Bank Ltd.
Aluva

By M/s. B.S. Krishnan Associates

This case coming up for final hearing on 28.01.2015 and this Tribunal-cum-Labour Court on 12.02.2015 passed the following

AWARD

In exercise of the power conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour as per Order No. L-12011/47/2010-IR(B-1) dated 25.05.2011 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the management of Federal Bank, Aluva, Cochin in terminating the service of Shri K. Rajsekharan, Ex-Bankman, Salem Branch *w.e.f.* 31.10.2009 *vide* their order dated 01.12.2009, is legal and justified? To what relief the workman is entitled?"

The workman while working in the Salem Branch of the management bank as bankman he had continuously

absented himself from attending duty from 09.03.2009 onwards and thereby his service was terminated *w.e.f.* 31.10.2009 *vide* order dated 01.12.2009. As his subsequent endeavour for reinstatement was turned futile the union of which he is a member raised this industrial dispute.

4. After appearance union filed claim statement challenging the validity of the order terminating the workman from service alleging that he was terminated from service without conducting any enquiry and without considering the reasons assigned by him for his absence and also without affording any opportunity to adduce evidence. The procedure adopted by the management for the termination of service is in violation of the provisions of Bipartite Settlement. The termination of employment on the premise that the workman had vacated his employment is illegal and unsustainable and it is disproportionate to the allegations based on which the termination was effected. Hence it is prayed to pass an award setting aside the termination of employment of the workman and to direct the management to reinstate him in service with continuity of service, back wages and all other consequential benefits.

5. Management filed written statement contending that it is not a case of termination of employment of the workman by the management and hence the issue referred for adjudication is not maintainable. He was proceeded against under clause 33(i) of the Bipartise Settlement dated 02.06.2005 whereby the workman was deemed to have voluntarily vacated his employment. As he was continuously absented from 09.03.2009 onwards unauthorisedly without giving any information or any leave application to the management bank the matter was proceeded with in accordance with the said provision is clause 33(i) of that Bipartite Settlement. The procedural requirements under the said provision was fully complied with before treating it as a case of voluntary cessation of service. He had absented himself for a continuous period of more than 90 days and hence notice dated 27th July, 2009 was issued to him calling upon him to report for duty within 30 days and also to explain why the absence is not to be treated as unauthorized absence. He has neither reported for duty within 30 days nor submitted any reply for the reasons for his absence within the stipulated time. Hence a further notice dated 23.09.2009 was issued to him asking him to resume duty within 30 days and also informing that in the event of failure to join duty he would be deemed to have voluntarily vacated his employment without further notice. Even after that the workman had not joined duty and not submitted any reason for his continued and prolonged absence from 09.03.2009 despite giving enough opportunity to him. He was continuously remained absent in an unauthorized manner for more than 7 months from 09.03.2009 and thereby he was informed about the decision of the management to proceed against him as per the provision regarding voluntary cessation of service contained in the Bipartite Settlement. He was treated to

have voluntarily vacated his employment in the management bank *w.e.f.* 31.10.2009. He had no intention to continue with the employment and the same is evidenced from his prolonged absence without any intimation and sanction. His letter dated 30.12.2009 was considered by the management in the right perspective. The allegation that no enquiry was held and no opportunity was given to adduce evidence are baseless and unsustainable. His service was terminated complying with the procedure established by law and after affording sufficient opportunity to him and so it is legal, proper and valid. Hence an award can be passed holding that he was deemed to have voluntarily vacated his employment as per clause 33(i) of the said Bipartite Settlement.

6. Union did not file any replication in spite of the opportunity given for that purpose.

7. From the side of the union the workman was examined as WW1 and Exts. W1 to W3 were got marked. No oral evidence was adduced from the side of the management. Exts. M1 to M3 and Exts. M4 series to M9 series were marked without any objection from the union.

8. The points for determination are:

- (i) Whether there was compliance of the procedural requirements under clause 33(i) of the Bipartite Settlement dated 02.06.2005 for the voluntary cessation of his service?
- (ii) Whether the action of the management in terminating the service of the workman *w.e.f.* 31.10.2009 *vide* order dated 01.12.2009 is legal and justified?
- (iii) Whether the workman is entitled to any relief?

9. **Point No. (i):**—According to the management the workman is deemed to have voluntarily vacated his employment as provided under clause 33(i) of the 8th Bipartite Settlement dated 02.06.2005 and it is not a case of termination of his service by the management. There is no case for the union that it is a case of termination under Section 25F of the Industrial Dispute Act. At the time of argument learned counsel for the union has also submitted that it is a case coming within the purview of clause 33(i) of that Settlement. Hence it is to be considered whether there is compliance with the procedural requirements under the said clause of that settlement. As the said clause is relevant for dealing with this issue the same is extracted below:—

"33. Voluntary Cessation of Employment

- (i) When an employee absents himself from work for a period of 90 or more consecutive days without prior sanction from the Competent Authority or beyond the period of leave sanctioned originally including any extension there of or when there is satisfactory evidence that he has taken up employment in India or outside, the management at any time thereafter

may give a notice to the employee at his last known address as recorded with the bank calling upon him to report for work within 30 days of the date of notice.

Unless the employee reports for work within 30 days of the notice or gives an explanation for his absence within the period of 30 days satisfying the management *inter alia* that he has not taken up another employment or avocation, the employee shall be given a further notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by registered post.

In the event of the employee submitting a satisfactory reply, he shall be permitted to report for work thereafter within 30 days from the date of expiry of the aforesaid notice without prejudice to the bank's right to take any action under the law or rules/conditions of service.

If the employee fails to report for work within this 30 days period, then he shall be given a final notice to report for work within 30 days of this notice failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by registered post."

It is not in dispute that the workman had been continuously absents himself unauthorisedly from 09.03.2009. He was issued with a notice dated 17.04.2009, copy of which was marked as Ext. M9, calling upon him to report for duty and also to show cause why disciplinary action shall not be taken against him. It has not got much relevance in this case as it was issued before the expiry of 90 days of unauthorized absence. After his absence for a period of more than 90 days Ext. M2 notice dated 27.07.2009 was issued to him calling upon him to report for duty within 30 days and requiring him to explain why his absence from 09.03.2009 shall not be treated as unauthorized absence and for initiation of appropriate action against him as envisaged in the Bipartite Settlement and rules of the bank. As there was no response from the workman for a period of 30 days after the issuance of that notice Ext. M3 notice dated 23.09.2009 was issued informing him to report for work within 30 days of the notice or else he will be deemed to have voluntarily vacated his employment on the expiry of 30 days from the date of that notice without further notice, as envisaged in the Bipartite Settlement. Even after the issuance of that notice workman did not resume duty or submitted any explanation within a period of 30 days and hence Ext. M4 communication dated 01.12.2009 was sent to him informing him that his unauthorized absence from 09.03.2009 was treated as voluntary cessation of service *w.e.f.* 31.10.2009. It is after the receipt of that communication

the workman for the first time made a request to the Additional General Manager, P & HRD of the management bank to permit him to join duty stating that he could not attend the duty from 09.03.2009 due to family problems and his mental condition was such that he could not make reply to the letters. His request was turned down by the management *vide* Ext. M6 letter dated 07.01.2010. Afterwards Ext. M7 letter was sent by him to the Managing Director & CEO of the management bank making such a request for the same reason. It was also rejected by the management as per Ext. M8 letter dated 06.03.2010.

10. It is clearly established that the workman was unauthorisedly absenting himself from 09.03.2009 and that the requirements for treating the absence as voluntary cessation of employment as provided under clause 33(i) of the 8th Bipartite Settlement dated 02.06.2005 were fully complied with by the management bank before he was deemed to have voluntarily vacated his employment. The said clause in that Settlement expressly invests power to the management to treat the workman as vacated from employment after complying with the procedural requirements in the event of unauthorisedly absenting himself for a period of more than 90 days. The provision does not contemplate any enquiry. The rule of *audi alteram partem* is embodied in that clause itself. The validity of that clause is not under challenge in this reference. It is an agreement entered into between the union and the managements of various bank and hence binding on the workman.

11. There is no allegation in the claim statement to the effect that there was any valid reason for unauthorizedly absenting himself from attending the office from 09.03.2009 onwards. It is only in the proof affidavit of the workman it is averred that his absence was due to acute domestic problems. It is also not proved by adducing any independent evidence. It cannot easily be believed that he was not in a position to send a reply to the notices issued from the management bank as per clause 33(i) of the said Bipartite Settlement. There is no reason to hold that there is any violation of the procedural requirements as provided under clause 33(i) of the 8th Bipartite Settlement as to voluntary cessation of employment.

12. Point No. (ii):— Since there is a valid termination of service as per clause 33(i) of the said Settlement the action of the management can be held to be legal and justifiable.

13. Point No. (iii):— Since the action of the management in terminating the service of the workman is found to be legal and justified he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 12th day of February, 2015.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the union

WW 1 16.09.2014 Shri K Rajasekharan

Witness for the management NIL

Exhibits for the union

- | | | |
|----|---|---|
| W1 | - | True copy of letter dated 01.12.2009 addressed to Shri K Rajasekharan, Salem. by the Dy. General Manager, Disciplinary Authority, The Federal Bank Ltd. Industrial Relations Division, Regd. Office, Aluva. |
| W2 | - | True copy of letter dated 30.12.2009 addressed to the Addl. General Manager, P & HRD, The Federal Bank Ltd, Head Office, Aluva by Shri K Rajasekharan, (Bankman, PF No. 7085), Salem. |
| W3 | - | True copy of the mercy petition dated 09.02.2010 submitted to the Managing Director & CEO, The Federal Bank Ltd. Head Office, Aluva by Shri K Rajasekharan, (Bankman, PF No. 7085), Salem. |

Exhibits for the management

- | | | |
|----|---|---|
| M1 | - | True copy of memorandum dated 21.08.2008 issued by the Asstt. General Manager, Disciplinary Authority, P & IR Department, The Federal Bank Ltd. to Shri K Rajasekharan, PF No. 7085, Bankman, Salem. |
| M2 | - | True copy of notice dated 27.07.2009 issued by the Dy. General Manager Disciplinary Authority, Personnel & Industrial Relations Department, The Federal Bank Ltd., to Shri K Rajasekharan, Salem. |
| M3 | - | True copy of notice dated 23.09.2009 issued by the Dy. General Manager, Disciplinary Authority, personnel & Industrial Relations Department, The Federal Bank Ltd., Regd. Office Aluva to Shri K Rajasekharan, Salem. |
| M4 | - | True copy of latter dated 01.12.2009 addressed to Shri K Rajasekharan, Salem. by the Dy. General Manager, Disciplinary Authority, Industrial Relations Division, The Federal Bank Ltd., Regd. Office, Aluva. |

- M4(a) - Acknowledgement card
- M5 - True copy of letter dated 30.12.2009 addressed to the Additional General Manager, P & HRD, The Federal Bank Ltd., Head Office, Aluva by Shri K. Rajasekharan.
- M6 - True copy of letter dated 07.01.2010 addressed to Shri K Rajasekharan by the Addl. General Manager (HRD), Industrial Relations Division, The Federal Bank Ltd., Regd. Office, Federal Towers, Aluva.
- M6(a) - Acknowledgement card;
- M7 - True copy of mercy petition dated 09.02.2010 submitted by Shri K Rajasekharan to the Managing Director & CEO, The Federal Bank Ltd. Head Office Federal Towers, Aluva.
- M8 - True copy of letter dated 06.03.2010 addressed to Shri K Rajasekharan by the General Manager (Operations), Industrial Relations Division, The Federal Bank Limited, Regd. Office, Federal Towers, Aluva
- M8(a) Acknowledgement card
- M9 - True copy of Show case Notice dated 17.04.2009 issued by the Assistant General Manager, Disciplinary Authority, P & IR Department, The Federal Bank Ltd. to Shri K Rajasekharan;
- M9(a) - Acknowledgement card.

D. SREEVALLABHAN, Presiding Officer

नई दिल्ली 12 मार्च, 2015

का.आ. 516.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आई सी आई सी आई बैंक लि. प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण दिल्ली के पंचाट संदर्भ संख्या (66/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/03/2015 प्राप्त हुआ था।

[सं एल-12025/01/2015 आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th March, 2015

S.O. 516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2013) of the Cent. Govt. Indus. Tribunal-cum-Labor Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the management of ICICI Bank Ltd. and their workmen, received by the Central Government on 12/03/2015.

[No. L-12025/01/2015—IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DELHI

ID No. 66/2013

Shri Gopal Krishna Lal Das,

S/o Shri J.P. Pallav,

F/o Flat No. C-8, Platinum Apartments,

Rohini, Delhi 110089Workman

Versus

1. ICICI Bank Ltd.
Central Tran Deposits,
Regional Processing Center,
4E, Jhandewalan Extension,
Rani Jhansi Marg,
New Delhi 110 005
2. ICICI Bank
Through Regional Manager,
NBCC Place, Pragati Vihar,
Bhishma Pitamah Marg,
Lodhi Road,
New Delhi 110 003Management

AWARD

Relevant facts necessary for disposal of the reference are as under:

2. Briefly, Shri Gopal Krishan Das (in short the claimant) filed the present claim against the management before this Tribunal with the averment that the claimant was an employee of Ghaziabad Urban Co-operative Bank (U.P.) as Assistant Manager from 04.12.1990 to November 2006 for a period of 7 years prior to his employment with the management. Claimant, after accepting offer from the management, resigned from Ghaziabad Urban co-operative Bank in the hope of better employment benefits as he was promised by the management to be absorbed permanently in due course. Claimant rendered his services to the management at Regional Processing Center, Jhandewalan

Extension, New Delhi as a DVU official since 04.12.2006 with utmost sincerely and honesty and without any complaint from any quarter. Salary of the claimant was Rs. 10,000.00 per month and he was also assured of increment of 10%, which was not given to him by the management. Every year, the work for the respective period/year was renewed without any objection, but all of a sudden on 02.12.2011 at about 5 p.m., local management told that service of the claimant are not required and instructed him not to attend duties with effect from 03.12.2011. The claimant approached senior officials for removal of his grievance, but it was of no use. Claimant also moved an application for removal of his grievance, on 30.12.2011 of the Executive Director of ICICI Bank Ltd. (Ex.WW1/6).

3. There are averments in para 6 of the claim statement that the management without any cogent reasons terminated services of the claimant in violation of labour laws. Management also failed to serve one months' notice in advance from the date of proposed termination. Management in the garb of words 'Contract' and 'Consultancy' allegedly robbed the claimant of all legal benefits and exploited him like a labour using as 'jack of all master of none' from morning till night.

4. Management deliberately and intentionally did not enhance salary and terminated services of the claimant in an illegal manner. No increment was paid to the claimant during the period of his employment. Claimant at the time of termination was drawing a salary of Rs. 11,000.00. Thus, an amount of Rs. 26,400.00 on account of arrears of salary and a sum of Rs. 11,000.00 towards notice, totaling Rs. 37,400.00 is due from the management. The claimant is also entitled to interest at the rate of 12% per annum on the above amount. Management, despite repeated visits of the claimant, neither paid arrears, including other benefits nor reinstated him.

5. It is also averred that legal notice was also served upon the management through his counsel on 06.02.2012 and reminder to the above notice was sent on 21.02.2012, but no reply was sent to the claimant. Later on, Management sent a reply dated 12.03.2012. The claimant is unemployed since the date of his termination by the management and is unable to get any job despite his best efforts. Prayer has been made to reinstate the claimant with full back wages, including arrears of salary and other benefits etc.

6. Claim was contested by the management, who filed reply thereto. In written statement, management took preliminary objection inter alia that the claimant is not a workman as defined in the ID Act and was simply engaged as a consultant by a written contract duly acknowledged and signed by the claimant. He was being paid salary of Rs.11,000.00 per month for providing consultancy services. It is also alleged that the claimant sent an appeal on 31.12.2011 to the Executive Director, wherein he has admitted that he was appointed as a consultant on contractual basis

and his contract was not renewed. Claimant has given an impression that he is an expert in giving consultancy services in CTD and he is providing such services to many other organizations on contract/retainer ship basis. Accordingly, the management had engaged him as consultant on fixed amount for a fixed term, which came to an end automatically. Management had denied other material averments contained in the claim statement. It is also admitted that legal notice dated 21.02.2012 was received, which was replied by the management on 12.03.2012. Finally, prayer has been made for dismissal of the claim petition.

7. Against the factual background, vide order 01.07.2013, following issues were settled:

- (1) Whether the claimant was a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947?
- (2) Whether non-renewal of his contract of service falls within subclause(bb) of clause (oo) of Section 2 of the Industrial Disputes Act, 1947?
- (3) Whether claimant is entitled to relief of reinstatement in service?

8. Parties filed oral as well as documentary evidence in support of the stand taken in their respective pleadings. In fact, claimant examined himself, Shri Narender Kumar Khanna, Shri Ashok Kumar Verma and Shri Rajesh Singh as WW1 to WW4 respectively. Management examined Shri Neeraj Katoch as MW1. No other witness was examined by either of the parties.

9. I have heard Shri R.K. Sinha, A/R on behalf of the claimant and Dr. M.Y Khan, A/R on behalf of the management. My findings are as follows:

Issue No.1 and 2

10 Both these issues are interconnected and as such being taken up together for the purpose of discussion. At this stage, it is necessary to reproduce the provisions relating to the definition of 'workman' as contained in section 2(s) of the act:

- (s)"workman" means any person (including an apprentice)employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person.
- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

- (ii) who is employed in police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

11. The question of renewal of contract will arise only if the claimant herein is firstly held to be a workman. Claimant has specifically alleged in the claim petition that he was earlier working as Assistant Manager in Ghaziabad Urban Co-operative Bank vide and was drawing salary of Rs. 11,000.00. Claimant has also filed evidence by way of affidavit dated 31.07.2013, Ex.WW1/A and tendered in evidence documents Ex.WW1/1 to Ex.WW1/12 in support of his case. It is deducible from the cross examination of the claimant that he is an MBA and no termination letter was issued to him. He has also mentioned of his filing an appeal Ex.WW1/6. He further admitted that his engagement was a contract of employment and that when his services came to an end, he was drawing salary of Rs. 11,000.00 a month.

12. Claimant also examined Shri Narender Kumar Khanna as WW2. This witness also tried to support the case of the claimant. He further deposed that there were 11 employees, out of which 10 were retired persons and the 11th was Shri Gopal Krishan Das, claimant herein. He categorically stated that no officer of the management has given any assurance to the claimant was working as a consultant with the management and as per memory of this witness, the claimant worked till November or December 2011.

13. There is another witness, Shri Ashok Kumar Verma, WW3, who was also working as consultant at that time. He further admitted that he alongwith the present claimant was working as consultant at the age of 67 years after his retirement.

14. Shri Rajesh Singh was examined by the claimant as WW4. As per statement of this witness, claimant was performing duties of Document Verifying Officer. This witness has worked with the management till February 2012. He further deposed that in his presence, management asked the claimant to go since tenure of his service stood concluded. This fact was told to the claimant in December 2011. This witness is an advocate since 2000 and he was also performing the work of Document Verifying Officer. His contract was also initially for a period of one year, which was extended from time to time. His contract was expiring in May 2012 but he left in the month of February 2012.

15. Management has examined Shri Neeraj Katoch as MW1. He was working as Chief Manager with the management at Jhandewalan Extension branch, Delhi. He has filed his affidavit as Ex.MW1/A and tried to support the averments contained therein. This witness has clearly stated that the claimant was contractual consultant and was getting fixed consultancy amount per month, as honorarium. He has also verified the signatures of Shri P.S. Roy Chaudhary on Ex.WW1/2 and Ex.WW1/5. He has also mentioned about the terms of contract of service and deposed that there was no requirement of service of one month's notice to the claimant.

16. It is clear from the pleadings as well as evidence on record that the claimant has tried to prove that he was engaged by the management with the assurance that he would be made permanent whereas management took a clear cut stand that services rendered by the claimant herein was for affixed period on contract basis and the claimant was also being paid a fixed salary.

17. At this stage, it is appropriate to refer to the offer of appointment made to the claimant by the management. It is clear from letter Ex. WW1/2 dated 04.12.2006 from the management of ICICI Bank Ltd. containing conditions of appointment of the claimant herein and the same are as under:

- "1. The tenure of consultancy will be for a period of one year with effect from 06.12.2006. During the said period, the services shall be terminated by either side with one month notice in writing on payment of amount equivalent to one month service fees in lieu of notice, without assigning a reason.
2. During the tenure, you shall be paid all inclusive honorarium of Rs. 10,000.00 per month (rupees Ten Thousand only). TDS will be deducted, as applicable, from this payment as per current rate.
3. The bank will have absolute right to assign to you such assignment, as it may deem fit from time to time.
4. During the tenure, you will not take up any part-time job whether advisory or otherwise.
5. You will observe the rules and regulations as may be applicable to you from time to time.
6. You will observe secrecy with regard to information/data you may have access to during the tenure and even thereafter.

If the above terms and conditions are acceptable to you, please intimate your formal acceptance to us on the copy of this letter within a week from the date of this letter. You will be required to report to RPC Head, Delhi on the above mentioned date. Unless we receive conformation as stated above, this offer shall stand revoked."

18. There are also subsequent letters dated 03.12.2007, Ex.WW1/3, 03.12.2008 which is Ex.WW1/4 and letter dated 02.12.2010 which is Ex.WW1/4.

19. A comparative reading of the above letters would show that Clauses 1 to 6 in all the offer letters is the same. In the end of every letter, it is mentioned that in case terms and conditions are acceptable to you (the claimant), then he was to intimate regarding acceptance of the same. Admittedly, claimant herein has accepted the terms and conditions initially when he was appointed in the year 2006. Now, the vital question which requires determination is whether the claimant herein falls within the definition of 'workman' and his services were purely of engagement on contractual basis for a specific period. Other connected question is as to whether any notice was required to be served upon the claimant before terminating his services.

20. Shri Sinha, appearing on behalf of the claimant, strongly urged that the claimant herein has left a lucrative job and was given an impression by the management that his services would be made permanent with the passage of time. Since the claimant was performing his duties honestly and sincerely, as such, termination of the job without notice is in clear cut violation of section 25F and other provisions of the Act. It was urged that the claimant is unemployed since then and is unable to get any job. Secondly, it was urged that the claimant has worked for more than 240 days with the management; hence the management cannot terminate the services of the claimant without following procedure contained in the Act.

21. Per contra, Dr. M.Y. Khan strongly urged that the claimant in the case in hand does not fall within the definition of 'workman' as defined in section 2(s) of the Act. Provisions of section 25F are not attracted to the case in hand. Job of the claimant herein was of Consultant and he was appointed for a specific period. After expiry of the said period, claimant ceases to have any kind of lien on the job. During the course of arguments, the learned counsel in support of his submissions has relied upon the cases of Peter Ramesh Kumar vs. Executive Director MPC(I) Ltd.(2007(114) FLR 1167) and Indian Sulphacid Industries Ltd. Vs. Labour Court Rohtak (1992(65)FLR 705).

22. It is clear from perusal of the ratio of law in Peter Ramesh Kumar vs. Executive Director MPC(I) Ltd. (supra) that the petitioner in that case was an advocate and made certain claim against the company towards conveyance allowance and travelling allowance etc. According to the petitioner, he was engaged on a fixed sum of Rs. 4500.00 + conveyance charges as per agreement. He was also engaged as a consultant of the company for a period of 11 months. Later on services of the petitioner in that case were not regularized and matter ultimately reached the High Court wherein plea was taken by the management that the petitioner advocate does not fall within the

definition of 'workman' as defined in section 2(s) of the Act. Labour court came to the conclusion that the petitioner in that case is not a workman and is an independent professional. When the matter reached before the Hon'ble High Court decision of the Labour Court was upheld. It was observed that the petitioner was simply rendering legal opinion or preparing pleadings on behalf of the company and providing necessary consultancy to the company. Distinction was drawn between occupation and profession. Since petitioner in that case was held to be a professional and as such professional can never be termed as 'workman' under law.

23. Contention made by the claimant that notice was required to be issued to him and in the absence of issuance of notice his termination of job is illegal, is without any merit and is liable to be rejected for the simple reason that the job of the claimant herein was contractual in nature and he was appointed for a fixed period and with the expiry of that period, his appointment automatically stood terminated on the completion of the stipulated period. Such a case does not fall within the purview of ID Act. He was not a workman for the purpose of section 25F of the Act. I find support to his view from the case f MD Karnataka Handloom Development Corporation Ltd. vs. Mahadeva Laxman Rawal (2007(112) FIR 490SC). In the said case also the respondent was appointed for various speels of fixed periods on a fixed honorarium as an expert weaver to train the weavers in the unorganized sector. He was on contract basis 200 days only and later on his employment expired on the 201st day. It was against this background that the matter reached before the Hon'ble Apex Court. There was no evidence on record to suggest in that case that any assurance was given by any competent officer of the management to the claimant that his services would be made permanent. Even in the case in hand, Shri Narender Kumar WW2 categorically stated in his deposition that in his presence no officer of the management gave any assurance to the claimant relating to continuity of his job.

24. Case of the claimant here is purely based upon terms and conditions contained in the last letter of offer of appointment Ex.WW1/5 dated 02.12.2010. Since the claimant has accepted terms and conditions as is clear from his deposition as well as pleadings, therefore, it does not lie in the mouth of the claimant to urge that he was required to be made permanent after expiry of the period contained in letter/agreement, Ex.WW1/5. In view of this, it is held that the claimant herein does not fall within the definition of workman.

25. The other related question is whether the non-renewal of contract of service attracts provisions of section 2(oo) read with clause (bb) of the Act, which deals with retrenchment and reads as under:

(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason

whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein;

26. It is clear from bare perusal of the above definition that when the non-renewal of contract is on account of stipulation in the agreement/contract, in that eventuality, termination of job of an employee will not amount to retrenchment so as to attract penal provisions of Section 25F of the ID Act, which prescribes necessary conditions to be followed before retrenchment is ordered by the employer. As discussed above, there is no clause or stipulation in the agreement/letters *vide* which the claimant, was given assurance of re-employment. Thus, his appointment was admittedly for a fixed period with no stipulation or clause for further renewal. In *Bhavnagar Municipal Corporation vs. Salimbhai Umarbhai Mansuri* (2013 Lab. IC 3273), the Hon'ble Apex Court, almost under similar circumstances, dealt with the question of applicability of provisions of Section 25F read with section 2(oo) of the Act. It was a case where a person was appointed on daily wages as helper in Water Works Department for a fixed period under two different office orders. Services of the employee stood terminated after serving for 54 days and the employee raised a dispute, which was referred to the Labour Court for adjudication, wherein the employee prayed for renewal of his contract. The Labour Court directed the management to reinstate the employee with continuity in service. Thereafter, matter was taken by the management by filing a writ petition before the Hon'ble High Court, which was also dismissed. Ultimately, the management took the matter before the Hon'ble Apex Court, wherein award of the Labour Court as well as judgement of the Hon'ble High Court was set aside by observing as under:

"9. Section 2(bb) says that if the termination of the service of workman is as a result of non-renewal of the contract between the employer and the workman on its expiry of such contract being terminated under a stipulation in that behalf contained therein, the same would not constitute retrenchment.

10. Facts would clearly indicate that the respondent's service was terminated on the expiry of the fixed

periods mentioned in the office orders and that he had worked only for 54 days. The mere fact that the appointment orders used the expression 'daily wages' does not make the appointment 'Casual' because it is the substance that matters, not the form. The contract of appointment consciously entered into by the employer and the employee would, over and above the specific terms of the written agreement, indicate that the employment is short-lived and the same is liable to termination, on the fixed period mentioned in the contract of appointment."

27. Consequently, the claimant herein is also not covered by provisions of section 25F, which deals with conditions precedent for retrenchment of a workman. Since the claimant herein is not a workman as defined under section 2(s) of the ID Act, therefore provisions of section 25F cannot be pressed into service. Both these issues are decided accordingly against the claimant. Issue No. 3

25. Now, the residual question which survives for consideration is whether the claimant herein is entitled for reinstatement. There is no question reinstatement of the claimant as in as much as the claimant herein does not fall within the definition of workman as discussed above. His appointment was only for a fixed period. In view of ratio of law in *MD Karnataka Handloom Development Corporation Ltd. vs. Mahadeva Laxman Rawal* (supra), the Apex Court specifically held that after expiry of contract of appointment, claimant cannot urge that he was not served with a notice before his retrenchment in as much as his appointment was purely contractual and for a specific period. In *Kishore Chandra vs. Divisional Manager Orissa State Cashew Development Corporation* (2006(108) FLR 143) it has been held by the Supreme Court that in case of contractual period of engagement ended and there was no renewal thereafter, as such High Court has rightly set aside the order of the Tribunal directing reinstatement.

26. Similar view appears to have been taken in the case of management of LHMC and SK Hospital *Vs. Usha Dawar* (2001(2013 DL 494) wherein it was held that termination of fixed term contract in terms of stipulations contained in the said contract does not tantamount to retrenchment, as it is covered by exclusionary clause (bb) of section 2(oo) of the ID Act. Similarly in management of Hindustan Aeronautics Ltd. Bangalore *vs. P. Narayanappa* (2002 (92) FLR 622), services of the respondent were terminated on expiry of fixed period and tenure. Therefore, case of non-renewal of contract of employment after expiry of its term is not retrenchment within the meaning of section 25F of the Act. In view of this, it is held that there is no question of reinstatement of the claimant and the reference is held to be not legally maintainable.

27. As a sequel to my above findings, it is held that the claimant herein does not fall within the definition of

workman and as such reference filed before this Tribunal is not legally maintainable. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated: March 3, 2015

नई दिल्ली, 13 मार्च, 2015

का.आ. 517.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई 2 के पंचाट (संदर्भ सं. 10/2010) प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं. एल. 12012/77/2009-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th March, 2015

S.O. 517.—In pursuance of Section 17 of the Industrial Disputes, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 10/2010**) of the *Cent. Govt. Indus. Tribunal cum-Labour Court No. 2 Mumbai* as shown in the Annexure, in the industrial dispute between the management of **Union Bank of India** and their workmen, received by the Central Government on 13/03/2015.

[No. L-12012/77/2009-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K. B. KATAKE

Presiding Officer

REFERENCE NO. CGIT-2/10 OF 2010

[Ministry Order No. L-12012/77/2009-IR(B-II),
dt. 12/01/2010]

EMPLOYERS IN RELATION TO THE MANAGEMENT OF UNION BANK OF INDIA

The General Manager
Union Bank of India
60/80, Mumbai Samachar Marg

Fort, Mumbai 400 023

AND

THEIR WORKMEN

Mrs. Smita Ramakant Palande
W/o. Shri Ramakant K. Palande
At Port Acholi
Tal. Mahad
Distt. Raigad (MS).

Mumbai, dated the 16th February, 2015.

CORRIGENDUM TO AWARD DATED 20/11/2014

On the first page of award passed in Ref. No. CGIT-2/10 of 2010 after the words and their workmen, name of Mrs. Smita Ramakant Palande be added as per order on Ex-29. Name of the legal heir was inadvertently not mentioned in the award.

Further on page 13, Sr. No. (ii) of the Order may be read as "The first party is directed to pay pension to the second party workmen *w.e.f.* 26/03/2000 till 31/5/2013 and thereafter to his widow as per the Rules of the Bank". Instead of "The first party is directed to pay pension to the second party workmen *w.e.f.* 26/03/2000 as per the Rules of the Bank."

Date: 16/02/2015

K. B. KATAKE, Presiding Officer

नई दिल्ली, 13 मार्च, 2015

का.आ. 518.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोचीन पतन न्यास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अरुणाकुलम के पंचाट (संदर्भ सं. 15/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं. एल-35011/5/2010-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th March, 2015

S.O. 518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (**Ref. No. 15/2011**) of the *Cent. Govt. Indus. Tribunal - cum- Labour Court, Ernakulam* as shown in the Annexure, in the industrial dispute between the management of **Cochin Port Trust** and their workmen, received by the Central Government on 13/03/2015.

[No. L-35011/5/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ERNAKULAM**

Present: Shri D. Sreevallabhan, B.Sc., LL.B, Presiding
Officer

(Tuesday the 30th day of December, 2014/9th Pausha,
1936)

ID 15/2011

Union : The General Secretary
Cochin Port Staff Association
W/Island
COCHIN-9
By M/s. A.V. Xavier

Management : The Chairman
Cochin Port Trust
Willington Island
COCHIN
By M/s. B. S. Krishnan Associates

This case coming up for final hearing on 17.12.2014 and this Tribunal-cum-Labour Court on 30.12.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (I) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour *vide* its Order No. L-35011/5/2010-IR(B-II) dated 27.05.2011 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the management of Cochin Port Trust in going ahead with the proposal of cadre restructuring overlooking the apprehensions of the unions about its detrimental effects on career progression is justified? What relief the workers are entitled to?"

3. After service of summons both union and management entered appearance. Union filed claim statement alleging that the Cochin Port Staff Association arrayed as the union in this case is a registered union affiliated to All India Port and Dock Workers Federation and International Transport Workers Federation and it is competent to raise the industrial dispute of its members who are the staff/workers of the management. The appointment and promotion of employees in the management are governed by the Cochin Port Trust

Employees (Recruitment, Seniority and Promotion) Rules. As per the Rules there are four classes of employees in ministerial wing. Those are Class I, Class II, Class III and Class IV posts. The entry post is the Class IV post and the promotions to the other classes were effected solely on the basis of seniority without insisting for educational qualifications. There was a proposal for restructuring of the staff in the ministerial wing and it was approved by the Government of India, Ministry of Surface and Transport *vide* letter No. LB-12013/3/93-RD 94 dated 17.03.1994. After its approval, discussions were held with the unions on 26.03.1994 and a settlement was signed between the management and the unions under Section 12(3) of the ID Act, 1947 in the presence of the Regional Labour Commissioner (C), Ernakulam. As per the settlement it was agreed that filling up of posts by promotion/direct recruitment will be made according to a roster 1:1 ratio *i.e.*, promotion/direct recruitment and that not more than 50% of the total number of Class I post are to be filled up by persons recruited directly and when such recruitment is made the qualified departmental candidates also will be allowed to compete as per relevant rules. In violation of the terms of the settlement the management took hectic steps to implement the cadre restructuring report for the officers of the Port Trust, as recommended by Shri S. P. Bagla, former Secretary, Government of India as the Chairman of the pay revision committee for the Port Dock Officers for the Major Ports. Based on the report submitted by that Committee, the Ministry of Shipping prepared common recruitment rules in February, 2009 and had given instructions to all major ports to implement the recommendations. Pursuant to it the management had formulated recruitment rules based on the recruitment rules prepared by the Ministry of Shipping and it was placed before the Cochin Port Trust Board in February, 2004. About it union raised an industrial dispute and at the intervention of the Assistant Labour Commissioner (C), Ernakulam a Memorandum of Understanding was reached between the parties on 29.05.2004 by which the management agreed to discuss the matter further and redress the concern of the unions prior to the implementation of the Government order on cadre restructuring. Disregarding the MOU the management again in January, 2005 had taken hectic action to implement the order without redressing the concern of the union. Thereby the union served a strike notice and pursuant to which there was a conciliation by the ALC(C) by issuing notice dated 02.02.2005. After conciliation another Memorandum of Understanding was signed on 02.02.2005 by which the management agreed that no action would be initiated since the issue was at national level before the Ministry. In the meanwhile, the affiliates of the Federations at various major ports served strike notices and thereby the Chief Labour Commissioner initiated conciliation proceedings on that issue. As agreed before

the Chief Labour Commissioner, the Ministry of Shipping convened a meeting of the federation on 23.08.2005. In that meeting it was decided to constitute a committee with the representatives of all concerned to examine the impact of cadre restructuring on the promotion proposals of the Class III and IV employees. The Committee was appointed on 20.09.2005 under the chairmanship of the Managing Director of Indian Ports Association. The Committee submitted its report to the Ministry of Shipping on 19.01.2006 and it is still pending with the Ministry for orders. The management again placed the proposal before the Board. At that time the working president of the union who was also the Labour Trustee of the Board wrote a letter to the Chairman requesting him to defer the agenda for further discussions with the unions. As per the proposal several Class I posts which are the promotion posts of the ministerial staff/employees as per the existing rules have been identified and allotted to new categories of directly recruited employees. The engineering diploma holders are also included in the feeder category of estate manager and senior estate manager. All those proposals are in blatant violation of the existing recruitment rules/agreements adversely affecting the career of existing class III and class IV employees. Meanwhile five federations jointly served a strike on 01.07.2008 demanding the implementation of the recommendations of the committee headed by the Managing Director of the Indian Ports Association. The Chief Labour Commissioner intervened in the matter and held conciliation proceedings on 09.07.2008 and 10.07.2008. The Hon'ble Minister of Shipping had also intervened the meeting held on 10.07.2008. After having discussions a section 12(3) settlement was signed on 15.07.2008 agreeing to discuss and finalize the issue before 31.12.2008. As the settlement was not honoured by the management, the federation made a complaint to the Chief Labour Commissioner *vide* Letter dated 11.09.2009 and the same is still pending. The federation wrote a letter to the Managing Director of Indian Ports Association on 15.01.2009 demanding adherence to the statutory settlement. The union by its letter dated 30.03.2010 made request to the Ministry of Shipping for not approving the proposal made by the Cochin Port Trust Board on 08.05.2009. The action of the management to implement the cadre restructuring report is against the career of Class III and Class IV employees, against the statutory settlements under the ID Act and also against the collective bargaining principles. In spite of it the management prepared the Cochin Port Trust Employees Recruitment, Seniority and Promotion Regulation 2010 and published the same as GSR 862(E) in the Gazette. Management had initiated recruitments as per the same. It is arbitrary and in violation of the provisions in Section 33 of the Industrial Disputes Act. All the actions taken pursuant to the said rules are to be found to be null and

void. The workmen are entitled to get the benefits of the rules and regulations existed prior to those rules. The action of the management is not justifiable and hence the workmen are entitled to the benefits under the rules and regulations prevailing prior to the Rules and Regulations of 2010.

4. Management filed written statement contending that the union representing the workmen category employees of the management has no locus standi to raise the dispute concerning the cadre restructuring of class I officers not coming within the definition of workman under section 2(s) of the Industrial Disputes Act. The restructuring of cadres of class I officers and introduction of corresponding recruitment, seniority and promotion regulations is a major policy decision and the management has got the authority and discretion to frame and follow suitable HR policy in order to maintain efficient management cadre to meet with the challenges of the organization in a competitive environment. Courts will be slow to interfere with the policy decision of the management. The major ports in the country are functioning under the control of the Ministry of Shipping, Government of India. Cochin Port Trust is a central autonomous body and has to operate on commercial basis without any normal budgetary support from the Government. Under Section 111 of the Major Port Trusts Act, 1963 the Ministry has the power to issue directions to the Board of Trustees of the major ports. There had been representations from officers' federations in the port sector to undertake an exercise of restructuring the cadres of officers in the major ports as there were many anomalies and lack of uniform cadres prevalent in many major ports. Hence in order to bring about fair amount of uniformity in the cadres of officers in all major ports and to rationalize and streamline recruitment, seniority and promotion procedures in the major ports and to follow progressive human resources policies and procedures to meet the future challenges, the Ministry had initiated a process of cadre restructuring of officers in the major ports. The cadre restructuring proposal was prepared by two pay revision committees which consisted of eminent experts on the subject. After approving it, the Ministry of Shipping finalized the cadre restructuring proposal and Model Recruitment, Seniority and Promotion Regulations. Thereafter the same was forwarded to each major port in the country. Each Board of Trustees of the major ports had resolved to accept the Model RSP Regulations and cadre restructuring proposals and the same has been implemented with approval of Ministry of Shipping on due notification in the Gazette of India. It is now well settled that the courts will not substitute its view in the place of its experts in the field. The cadre restructuring orders for class I Officers in the management establishment have already been implemented and hence the issue referred for adjudication has become infructuous. The interest and service conditions of class III and IV Employees are not

adversely affected due to the implementation of the cadre restructuring orders and there is no adverse impact on their promotional avenues. Hence there is no scope to raise the issue as an industrial dispute. As per the new RS & P regulations filling up of posts at class I entry level by promotion/direct recruitment is made in the ratio 2:1 respectively upto 21.08.2012 and thereafter, it is to be in the ratio 1:2. When the posts to be filled by direct recruitment are advertised, qualified, employees already in service can also apply provided they possess the prescribed qualifications and experience. There is no upper age limit for such employees to apply. In the age of still competition and globalization government organisations and PSUs are inducting young professionals to meet the challenges and to have competent human resources to foster growth and to meet the technological changes. The main objectives of the cadre restructuring exercise were to address the anomalies in the cadre of officers in all the major ports and to integrate the isolated posts in the officers' cadre with the main stream so as to bring about fair degree of uniformity in the cadre of officers in all the major ports and to rationalize and streamline the recruitment, seniority and promotion procedures with a view to have a progressive Human Resource Policy. The Ministry of Shipping *vide* order dated 06.02.2004 issued the cadre restructuring orders stipulating *inter-alia*, number of departments, functions of departments, pay scales, method of recruitment as well as department wise strength of officers in respect of each of the major ports. At that time there were apprehension among unions about the impact on the promotional avenues of class III and IV employees. The matter was deliberated at the national level with the federation of unions to allay the apprehensions. Thereafter the Ministry *vide* order dated 26.07.2004 forwarded the Model RS & P Regulations and directed the Port Trust Boards to finalize the RS & P Regulations. While the proposal for the implementation of cadre restructuring was under process in Cochin Port Trust, the major trade unions operating in the port had raised an industrial Dispute about it. During the conciliation proceedings the draft recruitment rules circulated by the Ministry were also discussed with the unions and thereafter finalized the proposal for submission to the Board. After having continuous discussions with major federations of Port and Dock Workers the Ministry *vide* letter dated 15.07.2008 directed the port administration to finalize the RS & P Regulations strictly in accordance with the Model RS & P Regulations and forward the same after board's approval for sanction of the Government and Gazette Notification. Being a policy decision of the government the port was bound to implement the Ministry's directions in this regard for the sake of uniformity in the cadre of port officers. The Board of Trustees of Cochin Port Trust after having due consideration of the proposal and all relevant aspect approved *vide* Resolution No. 20 dated 08.05.2009 and it was sent to the Ministry for approval and Gazette Notification. The Ministry in exercise of powers

conferred under section 124 and 132(1) of the Major Port Trusts Act, 1963 approved the same and notified it in the Gazette dated 28.10.2010. It was after complying with all the procedures laid down by law the RS & P Regulation as to the cadre restructuring was implemented. No service benefits or working conditions or promotional opportunities of class III and IV eligible employees have been adversely affected due to the implementation of the RS & P Regulations. It is not correct to say that class IV is the entry level post for ministerial establishment. Direct recruitment to class III ministerial establishment starts with Lower Division Clerk cadre and class IV category has separate channels and procedures for promotion in the grade. Promotion is not part of service conditions and cannot be claimed as a matter of right. At present all appointments and promotions are being made in accordance with the Cochin Port employees (Recruitment, Seniority and Promotion) Regulations, 2010. The Cochin Port Staff Association and some individual employees filed writ petitions before the Hon'ble High Court of Kerala challenging the implementation of cadre restructuring orders for class I officers in the management. Since those writ petitions are still pending reference of the same issue and continuation of parallel proceedings before this tribunal is not maintainable. The issue relates to cadre restructuring of class I officers of all major Port Trusts and hence several establishment situated in more than one State is likely to be interested or affected by such a dispute and so the issue ought to have been referred to a National Tribunal. The issue relates to class I officers and they are not made parties to the dispute. Hence the reference is bad for non-joinder of necessary parties. Since it was a policy decision taken by the Government concerning the class I officers of the Port there is no question of raising an industrial dispute. Hence an award to be passed holding that the action of the management of Cochin Port Trust in implementing the cadre restructuring order is justified and the union is not entitled to any relief.

5. Union filed replication denying the contentions in the written statement and reaffirming the allegations in the claim statement. It is further alleged that an employee joined in class IV and class III cadres in the ministerial wing of the Cochin Port Trust was able to get promotion to senior class I cadre. For the purpose of cadre restructuring four senior class I posts were created by abolishing corresponding number of class II post and thereby four managers in the class III cadre were deprived of their eligible promotion at the fag end of their service. It had also affected promotion opportunities of four senior accountants, four Accountants, four UD Clerks and four LD Clerks. Hence the union has every locus standi to raise the dispute as the cadre restructuring detrimentally affects promotional avenues of class IV and III employees. The approval of the cadre restructuring proposal by the Ministry of Shipping and the publication in the official Gazette alone do not

satisfy the statutory requirements for the implementation of cadre restructuring. There was no publication in the official Gazette other State in which the port is situated as required under Section 132 of the Major Port Trusts Act, 1963. Union has been resisting the implementation of the cadre restructuring from the year 2004 onwards. Union raised an industrial dispute before the Assistant Labour Commissioner(C), Ernakulam *vide* letter dated 11.02.2004 and again raised another dispute *vide* notice dated 02.02.2005. Afterwards on 05.04.2006 a strike notice was issued and all the time the management agreed to have further discussion in the matter of cadre restructuring of officers. It is after the failure of the Regional Labour Commissioner (C) to settle the dispute the reference was made by the Central Government to this tribunal. In the meanwhile a class II officer in the Wharf Section of the Traffic Department was denied promotion to class I post for not having the qualification of graduation as per the new RS & P Regulations. Hence he had approached the Hon'ble High Court of Kerala along with the union as it was necessary to have an immediate stay order to protect his right for promotion. The Hon'ble High Court passed an interim order to the effect that the promotion, if any, made pursuant to the new RS & P Regulations will be provisional and subject to the outcome of the writ petition. The employees who filed the writ petition Had already retired from service. Hence the pendency of that case is not a bar for the adjudication of the dispute in this case. Though major port trusts situate in various states, the promotional policy of each major port is different from the other. In the Cochin Port Trust an employee who joins in a class IV cadre can aspire promotion to senior class I officer level if he possesses the require qualifications. Since the union has no dispute with the class I officers of the Cochin Port Trust there is no need for making them as parties to the dispute. The union challenges the unfair action of the management in implementing the cadre restructuring proposal by dishonouring the bilateral agreements and assurances given by the management in this regard. Any kind of restructuring in the cadre can be done only in accordance with law. In the Cochin Port Trust the promotion of the class IV and III employees are intermingled with that of class II and I officers and hence a unilateral decision taken in class I cadre without considering the repercussions it make in the lower cadre will definitely be detrimental to the future career of the employees of the lower cadre. The restructuring of class I cadre can be done without disturbing the rights and privileges of the employees of the lower cadre. Before the implementation of the cadre restructuring promotion to class I post was done in the ratio 1:1 and the qualification was SSLC. After the implementation of the new RS & P Regulations a class II officer who is a graduate having three years of regular service in class II post will only be eligible for promotion. This is detrimental to the career progression of the existing class II officers as most of them had only qualification of

SSLC and less than three years of regular service. The promotion of Manager, Senior Accountant, Accountant, and UD Clerk will also be blocked by those rules. 20% promotions to LD Clerks (class III) are reserved for class IV employees of the management. Hence a class IV employee with required qualification can be promoted to Sr. class I post. No direct recruitment to the cadre of LD Clerk is being done due to ban on such recruitment. Therefore, for the time being, the entry level post for ministerial establishment in the Cochin Port Trust can be considered as class IV cadre. The cadre restructuring of class I officers was done in blatant violation of the clauses of the 12(3) Settlement dated 26.03.1994. Hence it is prayed for passing an award in favour of the union after rejecting the contentions of the management.

6. For the purpose of deciding this reference one witness was examined as WWI and Exts.W1 to W7 were got marked for the union. On the side of the management one witness was examined as MW1 and Exts.MI to M9 were marked.

7. The points for determination are:

- (i) Whether the union has the locus standi to raise the industrial dispute as to the cadre restructuring of class I officers of the management?
- (ii) Whether the issue referred for adjudication has become infructuous due to the implementation of cadre restructuring order for class I officers in the management?
- (iii) Whether the reference is bad for non joinder of necessary parties?
- (iv) Whether the issue was to be referred to National Tribunal?
- (v) Whether the reference is maintainable due to the pendency of proceedings before the Hon'ble High Court?
- (vi) Whether the apprehensions of the union about the detrimental effects of the proposal for cadre restructuring are reasonable?
- (vii) Whether there is any illegality in proceeding with the implementation of the proposal for cadre restructuring by the management?
- (viii) Whether the action of the management in going ahead with the proposal of cadre restructuring and the implementation of the new RS & P Regulations is justified?
- (ix) To what relief the workmen are entitled to?

8. **Point No.(i):—** The Cochin Port Staff Association is the union which raised this industrial dispute through its General Secretary. It is not in dispute that it is a registered trade union affiliated to All India Port and Dock Workers Federation and International Transport Workers and is

competent to raise the industrial dispute of its members who are the employees of the management. The contention of the management is that this industrial dispute is as to the cadre restructuring of Class I Officers who are not coming within the definition of workman under Section 2(s) of the Industrial Disputes Act and hence the union has no locus standi to raise such a dispute. Union raised the dispute since the promotional avenues of Class II, Class III and Class IV employees are likely to be affected by the proposal of cadre restructuring. It is the case of the union that the proposal for cadre restructuring is in blatant violation of the existing recruitment agreements and it would adversely affect the career progression of the existing Class III and class IV employees. Since there is the proposal to change the ratio of promotion of promotees and direct recruits and the educational qualification for promotion to Class I category it would adversely affect the chance for promotion of Class II, class III and class IV employees. In such a case the union has the locus standi to raise the industrial dispute with regard to the proposal of cadre restructuring as it would adversely affect the career progression of those categories of employees.

9. Point No.(ii):— It is at the time when the proposal for cadre restructuring was under consideration the present industrial dispute was raised by the union. Based on the report of the pay revision committee under the chairmanship of Shri S P Bagla, former Secretary, Govt. of India, Ext.M1 communication dated 06.02.2004 was sent to the Major Port Trusts & Dock Labour Boards by the Ministry of Shipping, about cadre restructuring. Afterwards as per Ext.M2 dated 26.07.2004 Model RS & P Regulations for Major Ports was sent from the Ministry to all Major Port Trusts for approval by its Board and to send it back to the Ministry for approval and notification in the official Gazette. There was delay for the approval by the Cochin Port Trust Board due to the objection of the union. The Board of Trustees in the meeting held on 29.03.2006 resolved to approve the Cochin Port Employees (RS & P) Regulations, 2006 as well as revised set of Recruitment Rules, forming part of the Regulations for class I posts based on Ministry's Model RSP regulations, subject to recasting of anomalies pointed out and subject to approval of the Central Government and the same is evidenced by Ext.M3. the copy of the minutes of the meeting of the board of trustees of the Cochin Port Trust held on 29.03.2006. The Ministry of Shipping *vide* its letter dated 15.07.2008. copy of which was marked as Ext.M4, directed the Chairman of the Cochin Port Trust to forward the copy of the Cochin Port Trust Employees'(Recruitment, Seniority and Promotion) Regulations along with other documents required for notification strictly in accordance with the Model Regulations sent along with Ext.M2. Thereby the Cochin Port Trust Board after detailed deliberations and considering the special circumstances resolved to approve the Cochin Port Trust Employees (Recruitment, Seniority

and Promotion) Regulations, 2009 and the proposed recruitment rules annexed as Appendix-V with the recommendations that existing eligible officers may be upgraded to the newly created higher posts at the time of introduction of the rules in order to ensure level playing field and to strictly implement the model RS & P thereafter subject to Government sanction and the same is evidenced by Ext.M5. the minutes of the proceedings of ordinary meeting No. I of 2009-10 of the Board of Trustees held on 08.05.2009. It was approved by the Central Government and published in the Official Gazette on 28.10.2010 and Ext.M6 was produced to prove the same. It is not in dispute that it was fully implemented in the Cochin Port Trust after its approval and publication in the Gazette. As the reference is with regard to the justifiability of the action of the management of the Cochin Port Trust in going ahead with the proposal of cadre restructuring it has not got much relevance alter the implementation of the Cochin Port Trust Employees(Recruitment, Seniority and Promotion) Regulations, 2010 after its approval by the Central Government and the publication in the official Gazette.

10. Point No.(iii):— The contention in the written statement is that the issue relates to Class 1 Officers and hence they are to be made as parties to the dispute and without making them as parties the reference is bad for non-joinder of necessary parties. It is because of the apprehension of the union that promotion to Class 1 from the workmen in the other three categories will be affected by the implementation of cadre restructuring the dispute was raised. It is only with regard to the justifiability in going ahead with the proposal of cadre restructuring overlooking the apprehensions of the union about its detrimental effects on career progression. The change of ratio with regard to promotion and direct recruitment as well as the change of educational qualification for promotion to Class 1 Officers from the other three categories made the union to raise the dispute. It does not relate to change of service conditions of Class 1 Officers. In such a case it cannot be said that the Class 1 Officers are necessary parties to the dispute. Hence it cannot be held that the reference is bad for non-joinder of necessary parties.

11. Point No.(iv):— The contention that the reference was to be made to a National Tribunal is not a matter to be considered by this tribunal. The reference itself is with regard to the action of the management of Cochin Port Trust in going ahead with the proposal of cadre restructuring overlooking the apprehensions of the unions about its detrimental effects on career progression. It is not with regard to the cadre restructuring of Class 1 Officers of all Port Trusts. The challenge of the union is with regard to the adverse effect of cadre restructuring as to the promotion of the Class IV and III employees of the Cochin Port Trust. It can also be seen from Ext.M1 that different ports are having different patterns depending on their varying circumstances and functional requirements.

Different Port Trusts have approved the model RS & P regulations on different dates. The Cochin Port Trust Employees (Recruitment, Seniority and Promotion), 2010 was approved on 08.05.2009 and the same was published in the official gazette on 28.10.2010. There is nothing on record to satisfy that all the ports are having identical RS & P regulations. The dispute under reference cannot be said to be about the cadre restructuring of Class I Officers of all major ports which requires reference to a National Tribunal.

12. **Point No.(v):**— It is contended by the management that the pendency of the petitions filed by the Cochin Port Staff Association and some individual employees before the Hon'ble Court of Kerala is an embargo to have a reference on the same issue and continuation of parallel proceedings. No documentary evidence was adduced in this case to prove that any proceeding is pending before the Hon'ble High Court of Kerala with regard to an identical issue. The details of any such proceedings pending before the Hon'ble High Court of Kerala are not stated in the written statement. In para 8 of the replication there is an admission as to the filing of a writ petition before the Hon'ble High Court of Kerala, in which the union and some of the employees are parties, about the denial of promotion by the traffic department of a class II officer of the wharf section to class III post for not having the qualification of graduation as per the new (Recruitment Seniority & Promotion) Regulations. No copy of the writ petition was produced in this case to satisfy that it relates to the issue referred for adjudication in this case. The writ petition is stated to have been filed after the reference. There is nothing to hold that the reference is to be treated as a parallel proceedings and hence not maintainable.

13. **Point No.(vi):**— The apprehension of the union is mainly about promotion to class I post from the other three categories. The recruitment and promotion to class I post was on the basis of the 12(3) settlement entered into between the management and the unions on 26.3.1994, copy of which was marked as Ext.W3. It was entered into based on a proposal of restructuring of staff in the ministerial wing put forward by the management and approved by the Ministry and the same is evidenced by Ext.W1. Before that settlement there was discussion about the proposal by the management with the unions on 26.03.1994 and the copy of record note of discussions of that meeting is Ext.W2. It was agreed to by the unions that tilling up of posts by promotion/direct recruitment will be made according to a roster in 1:1 ratio i.e., promotion/direct recruitment and that not more than 50% of the total number of class I posts is filled up by the persons recruited directly. It was further agreed that when direct recruitment is made to class I posts as above, qualified departmental candidates also will be allowed to compete as per relevant rules. Based on it clause 2(3) was incorporated in Ext.W3 that 50% of the posts in class I cadre of ministerial side remaining vacant on the date of that settlement and falling vacant thereafter to be

filled up by direct recruitment/induction of management trainees as decided by the management.

14. According to the union it is in violation of the terms of that settlement the management had formulated the R. S & P rules based on the Model RSP Regulations prepared by the Ministry of Shipping and placed it before the Cochin Port Trust Board in February, 2004. The new rules were framed pursuant to Ext.M1 communicating the decision for implementation of the recommendations made by the pay revision committee under the Chairmanship of Shri S P Bagla. Though it is alleged in the claim statement that the said committee submitted the report in February, 2009 in the proof affidavit of WW1 it is averred that the report was submitted by the committee in February, 1999 and not in February, 2009. It is not in dispute that the first volume of the report of the pay revision committee with regard to revision of pay and allowances was implemented and the recommendations of the committee in volume II as to cadre restructuring was sought to be implemented by the Ministry of Shipping as per Ext.M1. It is evident from Ext.M3 that the Cochin Port Employees (RS & P) Regulations, 2006 as well as revised set of recruitment rules forming part of the regulations for class I posts based on Ministry's model (RS & P) Regulations was approved subject to recasting of anomalies pointed out and approval of the Central Government. As the further steps for implementation of the regulations was delayed due to the protest of the unions the Ministry of Shipping requested the Cochin Port Trust to forward the regulations along with other documents required for notification strictly in accordance with the model regulations forwarded by the department for notification and further necessary action as per Ext.M4 letter dated 15.07.2008. It is because of the instruction given by the Ministry of Shipping the Cochin Port Trust had to take immediate steps for the approval of the Cochin Port Trust Employees (Recruitment, Seniority & Promotion) Regulations, 2009. It was approved in the meeting of Board of Trustees held on 08.05.2009. It was approved by the Central Government in exercise of the powers conferred by sub section (1) of Section 124 read with sub section (1) of Section 132 of The Major Port Trusts Act, 1963. It has come into effect after its publication in the official gazette on 28.10.2010.

15. According to the union the cadre restructuring of class I officers was done in blatant violation of the clauses of the 12(3) Settlement dated 26.03.1994. The management has got the right under Section 28 of the Major Port Trusts Act to make new regulations with regard to recruitment, seniority and promotion. It does not require the procedural compliance under Section 9A of the Industrial Disputes Act, 1947 even if it relates to change of condition of service. As per Section 111 of The Major Port Trusts Act, 1963 the Board, in the discharge of its functions under the Act, is bound by such directions on question of policy, as the Central Government may give in writing from time to time.

As it had become necessary to bring about fair amount of uniformity in the cadres of officers in all major ports and to rationalize and streamline (Recruitment, Seniority and Promotion) procedures in the major ports the Ministry had initiated a process of cadre restructuring of officers in the major ports after getting the recommendations made by the pay revision committee. It has come out in evidence that the new RS & P regulations was approved after having several discussions with the unions and federations. The cadre restructuring cannot be said to be illegal for the mere reason that some changes were made in deviation of the rules in existence.

16. Challenge of the union is only with regard to class I posts based on the change of ratio of promotion between direct recruitees and promotees and the change of basic qualifications for recruitment and promotion. The allegations with regard to the same are contained in Para 11 of the claim statement and para 12 of the replication. The allegation in para 11 is that the class I posts which were the promotion post of the ministerial staff/employees as per the earlier rules have been identified/allotted to new categories of employees directly recruited such as PRO, Law Officer, Welfare Officer, Hindi Officer etc. The allegation contained in para 12 of the replication is that before the implementation of the cadre restructuring promotion to class I post was done as per 1:1 ratio and the qualification was SSLC. After the implementation of the new rules in connection with the cadre restructuring class II Officer who has had a graduation will only be eligible for promotion if he had a regular service of three years in the class II post.

17. At the time of argument learned counsel for the management has argued that change of ratio and the educational qualification will not detrimentally affect the interest of the workman as promotion is not a vested right/accrued right and is not condition of service. It was further argued by him that they had only a chance for promotion which will not entitle them to raise such an industrial dispute. In support of his argument he has referred to the decision reported in Reserve Bank of India, Bombay Vs. C T Dighe and others 1981 LAB I.C.1103(SC). Therein it was held:

"Alteration of the conditions of eligibility governing employees belonging to a particular cadre cannot amount to changing the conditions of service of employees who belonged to another cadre, assuming that the said conditions were conditions of service. The changes introduced in respect of condition of eligibility may have an impact on the promotional prospects of employees from another cadre who are already in the panel or even of those who were expecting to be included in the panel, but it cannot be said that this would amount to changing their conditions of service. Further, it is well settled that a rule which affects the promotion of a person relates to his condition of service but this is not so if what is affected is a chance of promotion only".

Here in this case also the change of conditions of eligibility for promotion to class I post by changing the ratio and the educational qualification cannot be said to be detrimental as it is not a case of violation of service conditions. It might affect the chance for promotion. But there is no vested or accrued right for the workman to make a challenge about it. It is also pertinent to note that the federation has also agreed for change of ratio and the same could be seen from Ext.W6. Therein it is expressly stated that the Pay Revision Committee agreed to recommend to the Government that the promotion quota to the entry level class I posts to be kept at 66 2/3 % upto 31.03.2010 and thereafter it can be 33 1/3% as recommended in cadre restructuring. As per the new R,S & P regulations filling up of posts in class I entry level by promotion/direct recruitment is made in the ratio 2:1 respectively upto 21.08.2012 and thereafter it is to be in the ratio 1:2. It also provides for applying it to the posts required to be filled by direct recruitment from employees already in service provided they possess the prescribed qualifications and experience without any age limit. Hence it cannot be said that the proposal for cadre restructuring has affected the career progression of the other categories of employees.

18. Point No.(vii):— According to the union there is arbitrary violation of Section 33 of the ID Act in the implementation of the new RS & P regulations. It is alleged in the claim statement that since the management had not honoured the section 12(3) settlement signed before the Chief Labour Commissioner on 15.07.2008 federation made a complaint before him vide letter dated 11.09.2009 and the same is still pending before him and hence the implementation of the new RS & P regulations is in violation of Section 33 of the ID Act. There is no convincing evidence in this case to prove that any proceeding as contemplated under Section 33A of the ID Act was pending before the Chief Labour Commissioner at the time of implementation of the new R S & P regulations. Section 33A of the ID Act is applicable only when there is a change of condition of service etc. during the pendency of proceeding. It has already been found that there was no change of condition of service by the implementation of the new R S & P regulations. Hence it cannot be said that there is violation of the said provision in the implementation of the new R S & P regulations.

19. Learned counsel for the union has argued that the new R S & P regulations was not published in the State Gazette as provided under Section 132(2) of the Major Port Trusts Act and hence there is illegality in the implementation of the new R,S & P rules. Even though it is not a matter which will come within the purview of the reference it can be said that it is not a mandatory requirement for the coming into effect of the regulations in view of Section 124(1) of the Major Port Trusts Act. As per

that provision no regulation made by the Board under the Act other than a regulation made under Sub-section (2) of section 17 shall have effect until it has been approved by the Central Government and until such approval has been published in the Official Gazette. The new regulations had been approved by the Central Government and published in the Central Government Gazette. At the time of examination of MW1 it was stated by her that it was also published in the State Gazette. It is not necessary to have publication in the State gazette for coming into effect of the regulations as it is only directory to publish it in the State Gazette as per Section 132(2) of the Major Port Trusts Act.

20. Neither any other plea nor any other argument was advanced about any illegality in the proposal for cadre restructuring and the subsequent procedure for its implementation.

21. **Point No.(viii):**— In view of the foregoing discussion and the findings it is found that the action of the management of the Cochin Port Trust in going ahead with the proposal of cadre restructuring overlooking the apprehensions of the union about its detrimental effects on career progression is justified.

22. **Point No.(ix):**— As the action of the management is found to be justified the workers are not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant. transcribed and typed by her, corrected and passed by me on this the 30th day of December, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the union

WW1 01.07.2014 Shri K. Damodharan

Witness for the management

MW 1 22.09.2014 Smt. Prema Kumari

Exhibits for the union

W1 — Copy of letter No.LB-12013/3/93-RD dated 17.03.94 addressed to the Chairman, Cochin Port Trust, Willingdon Island, Cochin by the Research Officer, Wage Revision Cell, Ministry of Surface Transport, Government of India

W2 — Copy of the Record note of discussions of the meeting held with Cochin Port Staff Association and Cochin Port Employees Organisation on 26.03.1994 in

relation to the proposal for restructuring of staff in the ministerial wing

W3 — Copy of the Memorandum of settlement dated 26.3.1994 under Section 12(3) of the Industrial Disputes Act. 1947 between the management of Cochin Port Trust and their workmen represented by the Cochin Port Staff Association and Cochin Port Employees Organisation

W4 — Copy of the Memorandum of understanding dated 29.05.2004 arrived at between the management of Cochin Port Trust and Cochin Port Staff Association before the Assistant Labour Commissioner(Central), Ernakulam

W5 — Copy of letter No.2(3)/2005/D2 dated 01/02.02.2005 addressed to the Chairman, Cochin Port Trust, Willingdon Island, Cochin and the Secretary, Cochin Port Staff Association, Willingdon Island. Kochi by the Assistant Labour Commissioner (Central), Kendriya Shram Sadan. Olimughal, Kakkanad, Cochin

W6 — Copy of the report dated 19.01.2006 of the Committee constituted to look into the effect of cadre restructuring of Port & Dock Officers on the promotional prospects of Class III & IV employees

W7 — Copy of letter No.F.No.PR-11011/1/2012-PE-1 dated Nil addressed to the Chairmen of all Major Port Trusts and Managing Director, Indian Port Association. New Delhi by th Under Secretary to the Govt. of India, Ministry of Shipping (Ports Wing)

Exhibits for the Management

MI — Copy of letter No.A-29018/5899-P.E.I dated 06.02.2004 addressed to the Chairmen of all Major Port Trusts & Dock Labour Boards by the Under Secretary to the Govt. of India. Ministry of Shipping

M2 — Copy of letter No.PR-12012/1/04-P.E.I dated 26.07.2004 addressed to the Chairmen. All Major Port Trusts and Managing Director, Indian Ports Association, New Delhi by the Under Secretary to the Govt. of India. Ministry of Shipping

नई दिल्ली, 13 मार्च, 2015

का.आ. 519.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चैन्नई के पंचाट (के.सं.औ.अ. 41/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

M3 — Copy of the minutes of proceedings of meeting No.8 of 2005-06 of Board of Trustees held on 29.03.2006

[सं एल-12011/88/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

M4 — Copy of the letter No.PR-12012/7/2006-PE-1 dated 15.07.2008 addressed to the Chairman, Cochin Port Trust, Willingdon Island. Cochin by the Under Secretary to the Govt. of India, Ministry of Shipping, Road Transport and Highways, Department of Shipping, Ports Wing

New Delhi, the 13th March, 2015

S.O. 519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (**Ref. 41/2013**) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai as show in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 13/03/2015

[No. L-12011/88/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

M5 — Copy of the minutes of proceedings of ordinary meeting No.1 of 2009-10 of Board of Trustees held on 08.05.2009

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 16th February, 2015

Present: K.P. PRASANNA KUMARI, Presiding
Officer

Industrial Dispute No. 41/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) between the Management of Indian Bank and their workman)

BETWEEN

The General Secretary : 1st Party/Petitioner Union
Indian Bank Employees Union
No. 6, Moore Street, Mannady Corner
Chennai-600 001

AND

The General Manager (HRM) : 2nd Party/Respondent
Indian Bank
Corporate Office, HRM Department
264, Avvai Shanmugham Salai, Royapettah
Chennai-600 014

M8 — Copy of the forwarding letter No.1PA/GAD/158 Meeting/122/2013 dated 06.11.2013 addressed by the Chief Administrative Officer(I/C)

M9 — Copy of letter bearing No.PR-11011/1/2012-PE-I dated 05.12.2013 addressed to the Chairmen of all Major Port Trusts by the Under Secretary to the Govt. of India, Ministry of Shipping(Ports Wing)

Appearance:

For the 1st Party/ : Sri J. Thomas
 Petitioner Union Jeyaprabhakaran,
 Authorized Representative
 For the 2nd Party/ : M/s. T.S. Gopalan & Co.,
 Respondent Advocates

AWARD

The Central Government, Ministry of Labour & Employment *vide* its Order No. L-12011/88/2012-IR (B-II) dated 27.02.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Indian Bank management, Chennai in respect of not extending the Pension Scheme to the compulsory retired employees and employees inflicted with the punishment of "Be removed from service with superannuation benefits" is justified or not? What relief, the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 41/2013 and issued notices to both sides. The petitioner has appeared through Authorized Representative and the Respondent through the counsel and filed claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

Pension Scheme was introduced in the banking industry in the year 1995. A majority of the workmen have switched over to the Pension Scheme from the then existing Contributory Provident Fund Scheme. However, some of the workmen have continued to be in the Contributory Provident Fund Scheme itself. By the settlement dated 27.04.2010 one more option was given to them to join the Pension Scheme. Almost all the groups of employees were allowed to option for pension on the basis of the Circular dated 21.08.2010 issued consequent to the settlement. The employees on whom the punishment of compulsory retirement and removal from service were imposed also submitted their option to join the Pension Scheme on the basis of this circular. However, the Respondent refused to accept their option stating that those who were given the above punishments do not fall under any of the eligible categories to join Pension Scheme. As per the order of the Disciplinary Authority itself the employees on whom such punishments were imposed are eligible for superannuation benefits including pension. So the action of the Respondent in refusing to accept the option of those employees to join the Pension Scheme is unjust and unilateral. The action of the Respondent has resulted in gross discrimination for those who were given the punishment of Compulsory

Retirement and Removal from service. An order may be passed holding that the action of the Respondent in not extending the Pension Scheme to those employees who were made to retire from service compulsorily and removed from service with superannuation benefits is unjustified and direction may be given to the Respondent to extend the Pension Scheme to all such persons.

4. The Respondent has filed Counter Statement contending as follows:

By the settlement dated 14.02.1995 the employees who were given punishment of compulsory retirement, removal from service or discharge were entitled to superannuation benefits as would be due otherwise at that stage and without disqualification from future employment. The expression "as would be due otherwise" meant that in the case of the punishment of Compulsory Retirement where there was no loss to the Bank the employees could avail pension. It does not mean in all cases where the punishment of compulsory retirement with superannuation benefits was awarded to an employee, he would automatically be entitled to pension. By the Circular dated 21.08.2010 on the basis of a settlement of 27.04.2010 a second option for pension was to be exercised. Employees who were compulsorily retired from service or removed from service were not eligible to avail option to join the Pension Scheme as per the provisions of the Pension Settlement. It is not permissible for the petitioner to make a claim for those who do not fall in the categories listed in the settlement. There is no justification for the claim made by the petitioner.

5. The petitioner has filed rejoinder disputing the case in the Counter Statement and asserting the claim in the Claim Statement.

6. The evidence in the case consists of documents marked as Ext.W1 to Ext.W5 and Ext.M1 to Ext.M5. No oral evidence was adduced on either side.

7. The points for consideration are:

- (i) Whether the action of the Respondent in not extending the Pension Scheme to those employees who were made to retire from service compulsorily and those removed from service with superannuation benefits is justified?
- (ii) To what relief, if any, the petitioner is entitled?

The Points

8. It was only in 1995 Pension Scheme was introduced for the employees of the banking industry. Earlier they were covered by the Provident Fund Scheme and were contributing for the scheme. On introduction of the Pension Scheme a major portion of the employees opted for the Pension Scheme. However, there were several who wanted to stick on to the Provident Fund Scheme. They too subsequently became aware of the benefits of the Pension

Scheme and pressed for an option to join the scheme. A settlement was arrived at between the Banking Federation and the unions on 27.04.2010 and the Respondent Bank had issued a circular on 21.08.2010 consequent to this. As per this, those who were in service prior to 29.09.1995 and continued to be in service, those who retired after 29.09.1995 but before 27.04.2010, families of employees who retired after 29.09.1995 and died and families of employees who were in service after 29.09.1995 and died while in service were made eligible for pension. After the employees were allowed to exercise option for pension based on the circular dated 21.08.2010, those who were made to retire compulsorily and were removed from service by way of punishment also have submitted their option to join the Pension Scheme. But the Respondent was not willing to accept their option. The Respondent maintained that these categories of employees are not eligible to join the Pension Scheme.

9. The case of the petitioner is that the group of employees who were given the punishment of Compulsory Retirement and Removal from Service with Superannuation benefits were denied the right of pension even though they are eligible for pension and this is reflected in the very order of punishment. It is because of this the dispute is raised seeking an order to allow such employees also to exercise their option for pension so that the Respondent shall pay pension to them also.

10. Regulation-33(1) of the Indian Bank Employees Pension Regulations provide for compulsory retirement pension to a limited extent. Clause-1 of Regulation 33 provides for pension at a rate not less than 2/3rd and not more than full pension to an employee who was compulsorily retired from service if he was entitled to such pension on superannuation on the date of his retirement. Regulation-31 provides that an employee who is dismissed or removed or terminated from service shall forfeit his pension. However, the authority higher than the authority competent to dismiss or remove or terminate an employee from service may in deserving cases, sanction a compassionate allowance not exceeding 2/3rd of the pension which would have been admissible to him on the basis of the qualifying service rendered upto the date of his dismissal, removal or termination. Regulation-22 of the Pension Regulations states that resignation or dismissal or removal or termination of an employee from the service of the bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits. Thus it could be seen that it is by way of exception that Regulation-31 and 33 were included in the Pension Regulations. The punishment for misconduct as per the settlement dated 14.02.1995 provided for compulsory retirement, removal or discharge from service with superannuation benefits as would be due otherwise and without disqualification from future employment. Even though this clause provided for superannuation benefits,

the employees who were made to retire compulsorily or removed from service were not permitted to exercise the option for pension on the ground that they are not eligible for pension, they having forfeited their past service and there being no provision for pension to them.

11. The authorized Representative of the petitioner has referred to decision of the Apex Court in *BANK OF BARODA VS. S.K. KOOL* in Civil Appeal No. 10956/2013 in support of his argument that in spite of the above provisions in the Pension Regulations and clause in the settlement the employees who were made to retire compulsorily and were removed from service are eligible for pension. In the above case *S.K. KOOL*, an employee of Bank of Baroda was visited with the penalty of "removal from service with superannuation benefits as would be due otherwise and without disqualification". Though the employee put in a claim for pension, it was declined by the Management. The claim of the employee was based on the fact that the order of punishment itself provided for superannuation benefit to him. The Tribunal which considered the case held that *Kool* is entitled for superannuation benefits. The High Court also favoured the employee and dismissed the Writ Petition filed by Bank of Baroda and the Bank approached the Apex Court. Considering Regulation-22 of the Pension Regulations and also Clause-6(b) of the Bipartite Settlement the Apex Court has held:

"From a plain reading of the aforesaid regulation it is evident that removal of an employee shall entail forfeiture of his entire past service and consequently such an employee shall not qualify for pension benefits. If we accepted this submission no employee removed from service in any event would be entitled to pensionary benefits. But the fact of the matter is that the Bipartite Settlement provides for removal from service with pensionary benefits "as would be due otherwise under the rules or regulations prevailing at the relevant time". The consequence of this construction would be that the words quoted above shall become a dead letter. Such a construction has to be avoided".

The Apex Court has further held.

"The regulation does not entitle every employee to pensioner benefits, its application and eligibility is provided under Chapter-II of the regulations whereas Chapter-IV deals with qualifying service. An employee who has rendered a minimum of 10 years services and fulfils other conditions only can qualify for pension in terms of Article-14 of the Regulation. Therefore, the expression "as would be due otherwise" — would mean only such employees who are eligible and have put in minimum number of years of service qualify for pension. However, such of the employees who are not eligible and have not put in required number of years of qualifying service shall not be entitled to superannuation benefits though removed from service in terms of

Clause-6(b) of the Bipartite Settlement. Clause-6(b) came to be inserted as one of the punishments on account of the Bipartite Settlement. It provides for payment of superannuation benefits as would be due otherwise. The Bipartite Settlement tends to provide a punishment which gives superannuation benefits otherwise due. The construction canvassed by the employer shall give nothing to the employees in any event. Will it not be a fraud Bipartite Settlement? Obviously it would be. From the conspectus of what we have observed, we have no doubt that such of the employees who are otherwise eligible for superannuation benefits and are removed from service in terms of Clause-6(b) of the Bipartite Settlement shall be entitled to superannuation benefits. This is the only construction which would harmonize the two provisions. It is well settled rule of construction that in case of apparent conflict between the two provisions, they should be so interpreted that effect is given to both. Hence we are of the opinion that such of the employees who are otherwise entitled to superannuation benefits under the Regulation, if visited with the penalty of removal from service with superannuation benefits shall be entitled for those benefits and such of the employees though visited with the same penalty but are not eligible for superannuation benefit under the regulation shall not be entitled to that".

12. It is clear from the above decision of the Apex Court that the employees who were otherwise eligible for superannuation benefits under the regulation and visited with the penalty of removal from service with superannuation benefits shall be entitled for those benefits. If so, undoubtedly, those who faced the punishment of compulsory retirement from service with superannuation benefits also will be entitled to those benefits. The claim of the petitioner for superannuation benefits for those who were made to compulsorily retire from service or removed from service with superannuation benefits is justified in view of the dictum laid down by the Apex Court in the above case. The petitioner is therefore entitled to an order in its favour.

13. Accordingly, an order is passed as follows:

The Respondent is directed to extend the Pension Scheme to all those employees who were visited with the penalty of removal from service with superannuation benefits and compulsory retirement with superannuation benefits, if otherwise they were entitled to superannuation benefits under the Pension Regulations as on the date on which the punishment was imposed on them.

The reference is answered accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : None
Petitioner Union

For the 2nd Party/ : None
Management

Documents Marked

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	02.02.2012	Rejoinder to the counter reply in the ID raised by the Union
Ex.W2	09.11.2011	Counter reply by the Indian Bank Management in the ID raised by the Union
Ex.W3	11.06.2011	ID raised by the Union
Ex.W4	09.11.2012	Letter from Indian Banks' Association to the Chief Executives of Member Banks
Ex.W5	12.11.2012	Letter from Indian Banks' Association to the Chief Executives of Member Banks

On the Management's side

Ex.No.	Date	Description
Ex.M1	01.07.1979	Indian Bank Officers' Service Regulations 1974
Ex.M2	27.04.2010	Memorandum of Settlement u/s 18(1) of the ID Act on the issue to allow another option for those in service prior to 29.09.1995 and confirmed in service after that date, but did not option for pension when offered
Ex.M3	21.08.2010	Memorandum of Settlement extending another option to join the Pension Scheme to those who did not option for pension earlier.
Ex.M4	06.01.2014	Memorandum of Settlement — one more option of pension in terms of settlement dated 27.04.2010 to employees who were admitted/ removed from service, but subsequently, reinstated due to the decision of Court / Appellate Authority
Ex.M5	23.11.1995	Circular No. PRNL/123/95-95 dated 23.11.1995
Ex.M6	1995	Indian Bank (Employees') Pension Regulations 1995.

नई दिल्ली, 13 मार्च, 2015

का.आ. 520.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (के०स० औ०अ० 03/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं० एल-12012/95/2012-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, 13th March, 2015

S.O. 520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 13/03/2015.

[No.-L-12012/95/2012-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/03/2013

Date: 06.02.2015.

Party No.1: The Regional Manager,
Central Bank of India,
Kakani Oil Mill Compound'
Dharmadaya Cotton Fund Road,
Amravati-444001.

Versus

Party No.: Shri Yadav Tilluji Bawane,
Near Dauji Mahajan Akhada,
New Mangalwari,
Mehandibaug Road,
Nagpur-440017.

AWARD

(Dated: 6th February, 2015)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Bank of India and their workman, Shri Yadav Tilluji Bawane, for adjudication, as per letter No.L12012/95/2012-IR (B-II) dated 06.03.2013, with the following schedule:—

"Whether the action of the management of Central Bank of India through its Regional Manager, Amravati by dismissing Shri Yadav Tilluji Bawane from service w.e.f. 13.09.2010 is legal and justified? What extent, the workman is entitled for relief?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Shri Yadav Tilluji Bawane, ("the workman" in short) filed the statement of claim and the management of Central Bank of India ("party no. 1" in short) filed the written statement.

The case of the workman as presented in the statement of claim is that he joined the service of party no.1 on 02.01.1990 in clerical cadre and he was transferred from time to time as per the policy of the Bank and lastly, he was posted at Ghatladki Branch in the district of Amravati as head clerk with additional charge of cashier in the year 2005 and his service record was clean and without any blemish and while working in the said branch, all of a sudden, the then Regional Manager filed a FIR against him and so also against the Manager of the said branch and even though three employees were working in the said branch, only he himself and the Manager were made the scape goats for the forge alleged to be committed by one Shri R.R.Rahi, a customer of the Bank and for the alleged fraud, party no.1 issued the order of suspension against him on 10.06.2009, while he was in police custody and on 04.02.2009, he made a representation to the Regional Manager, for cancellation of the order of suspension, as the same was not sustainable, but party no.1 did not respond and instead issue the memo of charges on 10.08.2009, without any justification or evidence against him and went on to conduct the departmental enquiry against him illegally and improperly and without any regard to the principles of natural justice.

The further case of the workman is that he was holding only the additional charge of the post of the cashier/head cashier due to shortage of man power and he was performing the said work jointly under the active supervision and control of his superiors and the charge sheet dated 03.09.2009 served on him was vague and false and baseless allegations were made in the same against him and for want of the requisite particulars, he was unable to deal with the charges as mentioned in the charge sheet properly and effectively and in the so called departmental enquiry held against him, he was not given reasonable and adequate opportunity to defend himself and documents were not supplied to him and he was also not given scope for the cross-examination of the witnesses examined by the management and to lead evidence in his defence and thus, the findings of the Enquiry Officer are perverse and unsustainable in law and the punishment of dismissal from service imposed against him is without any basis or reason and too harsh and his past service record was not

considered before imposition of the order of punishment and as such, the order of dismissal from service passed against him is illegal, improper and unsustainable in law and therefore, he is entitled for reinstatement in service with continuity, full back wages and consequent benefits.

3. The party No.1 in the written statement, after denying the adverse allegations made in the statement of claim, has pleaded *inter alia* that the statement of claim filed by the workman is wholly misconceived and unsustainable in law and the workman has not approached the Tribunal with clean hands and he has suppressed the material facts and disciplinary proceedings were held against the workman under the provisions of Disciplinary Action Procedure for workmen, for the serious lapses and fraudulent acts committed by him while functioning as the Head cashier at its Ghatladki Branch and departmental enquiry was initiated against him in pursuance to the charge sheet dated 03.09.2009 with corrigendum dated 05.11.2009 and 16.11.2009 and the Enquiry Officer, after affording him reasonable opportunities to defend himself in the enquiry as per service rules and in accordance with the principles of natural justice, submitted the enquiry report, holding him guilty of the charges levelled against him and on the basis of the proved charges of misconduct, the Disciplinary Authority issued him a show cause notice on 03.05.2010 asking him to make submission on the findings of the Enquiry Officer and the workman made his submission in writing on 15.05.2010 and on consideration of the findings of the Enquiry Officer and the reply of the workman, the Disciplinary Authority made his own finding and communicate the proposed punishment to be awarded to the workman and gave him the opportunity of personal hearing and the workman appeared before the Disciplinary Authority and made his submissions and after consideration of the facts and circumstances of the matter, the Disciplinary Authority imposed the punishment of "Dismissal from service without notice" against the workman in terms of Para 6(a) of the Disciplinary Action Procedure by a detailed speaking and reasoned order passed on 07.09.2010 and the workman preferred an appeal to the Appellate Authority after careful consideration, on 07.12.2010, confirmed the order of punishment passed by Disciplinary Authority.

The Party No. 1 has also pleaded that the charge sheet dated 03.09.2009 was not vague and the workman was provided a Defence Assistant of his choice to defend himself and he was provided with all the documents demanded by him and he was allowed to inspect other records as sought by him and all these facts have been recorded in the proceedings which was duly signed by the workman and his defence assistant and a copy of the daily proceedings was also handed over to him and the findings of the Enquiry Officer are not perverse and the punishment imposed on him is no way disproportionate to the

misconduct committed by him and the workman is not entitled to any relief.

4. It is to be mentioned here that inspite of taking several adjournments; the workman did not file any rejoinder. The workman was also given opportunity to adduce evidence in support of his plea, but he did not adduce any evidence. The workman remained absent from 17.09.2014 and did not appear in the case. On 19.11.2014, to which date the case was fixed for argument also, neither the workman nor his advocate appeared to make argument, so order was passed to proceed with the case *ex parte* against the workman.

5. As this is a case of dismissal of the workman as a punishment in the departmental enquiry held against him, the fairness or otherwise of the departmental enquiry was taken up as a preliminary issue for consideration and by order dated 17.12.2014, the departmental enquiry conducted against the workman was held to be legal, proper and in accordance with the principles of natural justice.

6. As no argument was made on behalf of the workman, I think it proper to mention the principles enunciated by the Hon'ble Apex Court regarding the power of a Tribunal in interfering with punishment awarded by the competent authority in departmental proceedings.

In a number of decisions, the Hon'ble Apex Court have held that:

"The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art.309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter of the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

It is also settled by the Hon'ble Apex Court that:—

"A review of the above legal position would establish that the disciplinary authority and on appeal, the appellate authority, being fact finding authorities have

exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

"In departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to re-appreciate the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well-settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the Court, in exercise of the power of judicial review, is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is

confined to the examination of the decision-making process."

It is also settled beyond doubt by the Hon'ble Apex Court in number of decisions that:—

"Departmental enquiry is not bound by strict rules of Evidence Act, but by fair play and natural justice. Only total absence, but not sufficiency of evidence before Tribunal is ground for interference. If the enquiry has been properly held the question of adequacy or reliability of evidence cannot be canvassed before the court and in a departmental enquiry, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability".

7. Judging the present case in hand with the touch stone of the principles enunciated by the Hon'ble Apex Court as mentioned above, it is found that the Enquiry Officer has based his findings on the evidence on record of the enquiry and the Enquiry Officer has also assigned cogent reasons in support of his findings. It is also found that this is not a case of no evidence at all or that the findings of the Enquiry Officer are totally against the whole body of the evidence on record of the enquiry. Hence, the findings of the Enquiry Officer cannot be said to be perverse.

8. So far the proportionality of the punishment is concerned; it is found that commission of grave misconduct of fraudulent acts and thereby causing huge loss to the Bank has been proved against the workman in a properly conducted departmental enquiry against him. Hence, the punishment of dismissal from service cannot be said to be shockingly disproportionate to the gravity of the misconduct committed by him. Hence, there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:

ORDER

The action of the management of Central Bank of India through its Regional Manager, Amravati by dismissing Shri Yadav Tilluji Bawane from service w.e.f. 13.09.2010 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 मार्च, 2015

का.आ. 521.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पारादीप पत्तन न्यास के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (18/2011) प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं एल-38011/08/2010-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th March, 2015

S.O. 521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. 18/2011**) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, **Bhubaneswar** as shown in the Annexure, in the industrial dispute between the management of **Paradip Port Trust** and their workmen, received by the Central Government on 13/03/2015.

[No. L-38011/08/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri Pradeep Kumar,
Presiding Officer, C.G IT.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 18/2011

Date of Passing Award — 2nd day of December 2014

Between:

The Secretary, ... 1st Party-Management
Management Committee,
Paradip Port Trust, Paradip,
Jagatsinghpur, Odisha

And

The General Secretary, ...2nd Party-Workman.
Utkal Port & Dock Workers' Union,
H/17, Shramik Bhawan, V-Point,
Paradip Port, Distt.-Jagatsinghpur,
Odisha-754142

Appearances:

- | | |
|---|--------------------------------------|
| 1. Shri Jyoti Ray,
Assistant Secretary
(Accounts) | For the 1st Party-
Management |
| 2. Shri B. N. Moharana | For the 2nd Party-
Workman/Union. |

AWARD

The Government of India in the Ministry of Labour & Employment has referred the present dispute existing between the employer in relation to the Management of the Secretary, Management Committee, Paradip Port Trust, Paradip, Dist-Jagatsinghpur, Odisha, and their workmen represented through the Utkal Port & Dock Workers' Union, in exercise of the powers conferred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) *vide* their Letter

No. L-38011/08/2010-1R-(B.II), dated 23.02.2011 to this Tribunal for adjudication. The dispute as referred to has been mentioned under the schedule of the letter of reference which is quoted below.

"Whether the action of the Management Committee of Paradip Port Trust, Paradip by publishing order dated 06.05.2010 in case of Shri Chandramani Jena to go on retirement from services with effect from 31.08.2010 by reckoning his date of birth as 05.08.1950 instead of 05.08.1952 without following the principles of natural justice is legal and justified? What relief the workman is entitled to?

"Whether the action of the Management Committee of Paradip Port Trust, in the decision making process considering the date of birth in respect of Shri Narahari Behura as 02.01.1951 instead of 10.04.1954 as incorporated in the School Leaving Certificate without following the principles of natural justice is legal and justified? What relief the workman is entitled to?

The Utkal Port & Dock Workers' Union (herein after called "the union") representing the disputant workmen have stated in its Statement of Claim, rejoinder, evidence adduced and written notes of arguments that the workmen were engaged under the management of Paradip Port Trust as Mazdoors to undertake the clearing, forwarding and handling works. The two disputant workmen namely Shri Chandramani Jena and Shri Narahari Behura (herein after called "the workmen") were engaged under the Clearing, Forwarding and Handling Scheme, 1994 (herein after called "the Scheme") framed by the Management Committee of the Paradip Port Trust on the recommendations of the High Power Committee constituted under the directions of the Hon'ble Supreme Court of India. As required under the Scheme, the workmen had submitted their application forms alongwith the details of information including their date of birth supported with documents. Shri Chandramani Jena had filed the attested copy of his school leaving certificate issued by the Head Master of the school and Shri Narahari Behura has submitted the affidavit as required under the rules in support of proof of their date of birth and on the acceptance of the same the management engaged them as mazdoors under the scheme and they were continued thereafter. The medical certificates issued to the employees also reflects the same date of birth. Necessary entries to this effect have also been made in the N.S.S.N. form meant for the Provident Fund account which shows the same date of birth as mentioned in their application.

The management committee took an unlawful step in reducing the age in respect of the above workmen for which they were given premature retirement. Aggrieved with the office orders issued against them for their retirement on superannuation, they had made representations to the management. But, the same were turned down. The union have pleaded that reduction or enhancement of the age is

one of the implied conditions of service, whoever contravenes Section 9A of the ID Act automatically comes into play and accordingly the provision made in Section 33 becomes applicable.

Since the management did not consider their representations for correction of the wrong entries made by the officials of the management in respect of their date of birth in their applications for the post of mazdoor, the 2nd party union raised an industrial dispute before the Assistant Labour Commissioner (Central), Bhubaneswar for the redressal of their grievances through the process of conciliation and upon failure of the same the matter was referred to the appropriate Government and hence this reference. In supported the same, the 2nd party union filed certain documents marked as Exhibits 1 to 16 with a prayer to declare the office orders issued in respect of the retirement of the concerned workmen as illegal with a direction to the 1st party management to allow the workmen concerned by treating them that they are deemed to be continued in their service and are entitle to get their legitimate wages from the date when they were illegally superannuated from the services for the rest of the periods they would have continued in their services alongwith all consequential benefits and current wages forthwith.

The 1st Party Management on the other hand through its Written Statement and evidence adduced have stated the background of the emergence of the management committee and the modes of enlishment and registration of the CFH workers, their qualification and other requirements towards their eligibility for the post of mazdoor under the management. The 1st party management in their meeting held on 23.05.1994 have constituted four sub-committees to scrutinize the applications of existing CFH workers for their registration alongwith the subsidiary list of workers under the management. The sub-committee so constituted started their scrutinization/verification with effect from 27.06.1994. The management committee used to review the report of the sub-committee from time to time.

The disputant workmen were asked to change the date of birth mentioned in their application to a different date, *i.e.* 05.08.1950 instead of 05.08.1952 in respect of Shri Jena and 02.01.1951 instead of 02.01.1954 in respect of Shri Behura, before the sub-committee. In the case of Shri Behura, the management took the stand that Shri Behura had earlier filed sworn affidavit in support of his date of birth. But, subsequently he filed the copy of his school leaving certificate in support of his date of birth. Since, both the documents were contradicting, the management took the step of scrutinization and accordingly changed his date of birth to be 02.01.1951 instead of 02.01.1954 as per the report of the sub-committee.

On the basis of the pleadings and documents filed by the parties following issues were framed.

- (1) "Whether the action of the Management Committee of Paradip Port Trust, Paradip by publishing order dated 06.05.2010 in case of Shri Chandramani Jena to go on retirement from services with effect from 31.08.2010 by reckoning his date of birth as 05.08.1950 instead of 05.08.1952 without following the principles of natural justice is legal and justified?
- (2) "Whether the action of the Management Committee of Paradip Port Trust, in the decision making process considering the date of birth in respect of Shri Narahari Behura as 02.01.1951 instead of 10.04.1954 as incorporated in the School Leaving Certificate without following the principles of natural justice is legal and justified?
- (3) What relief the workmen are entitled to?

On behalf of the 2nd party workmen/union Shri Chandramani Jena, Shri Narahari Behura and Shri Bibhudhendra Narayan Moharana adduced evidence as W.W.-1, W.W.-2 and W.W.-3. They have exhibited a total number of 16 (sixteen) documents.

The 1st Party Management has examined only one witness on their behalf Shri Rabindra Kumar Nayak as M.W.-1. No document is marked exhibit on behalf of the 1st party management.

FINDINGS

Issues No. 1 and 2

Since both the issues relates to same cause of action pertaining to two different workmen, the same are taken together for consideration. The 1st party management invited and accepted applications from different persons to induct them into their workforce after examinations of their (workers) applications to satisfy their eligibility under the rules prescribed under the C.F.H. Scheme of 1994. The concerned workers also have got their medical certificates from the appropriate authority it that's submission before the 1st party management as required under the rules as a token of proof of their fitness for the post of mazdoor, which shows the same date of birth as is shown in their applications. Hence, after their absorption into the strength of the 1st party management on their being found suitable to be engaged as mazdoor for the C.F.H. works under the management, the question of change of date of birth of the workmen concerned should not have been raised again as the same had already been verified during the process of their induction into the workforce under the management.

However, in order to have fresh registration of the mazdoors, if the 1st party management found certain discrepancies in the date of birth of the disputant workmen as pointed out by the sub-committees constituted for such purpose, the matter should have been placed before the appropriate authorities like school inspectors, etc., who can verify the certificates submitted by the disputant

workmen to establish the genuineness of the documents towards proof of their date of birth. If the same was not possible, then the 1st party management should have presented the workmen before a medical board to ascertain their actual date of birth. But, the 1st party management did all those acts as per its sweet will which is not valid in the eye of law.

The sub-committee so constituted by the 1st party management though empowered to scrutiny/verify the applications/documents submitted by the workers were no way enjoying the authority of changing the date of birth of the workmen concerned on the oral statements made by the workmen. Since, a man may lie, but a document will not lie, the 1st party management at least based upon such principle adhered to the information available through the documents. The disputant workers might have agreed to change their date of birth on the instruction of the sub-committee with a fear of any adverse or disciplinary action taken against them by the 1st party management. It appears from the record submitted by the parties that the disputant workers are just literate, but they do not have sufficient qualification to decide the matter and defend themselves. The 1st party management should not have taken the advantage of the innocent sentiments of the mazdoors.

Also, the scheme under which the C.F.H. workers were being enlisted/registered clearly envisages that once the date of birth is accepted and recorded in official records, the same shall not be changed in future. Accordingly, though the 1st party management had given an opportunity to the disputant workmen of being heard on their change of date of birth, yet the same is not legal and justified as the change of date of birth from one date to another cannot be done either through the modes of settlement or proposal and acceptance. The process through which the 1st party management reduced the age of superannuation of the disputant workmen was not a judicial process. The same should have got necessary verification and authentication by the appropriate authorities as narrated above.

Accordingly, the action taken by the 1st party management by giving pre-mature retirement to the two disputant workmen in this case is not legal and justified. Also, the notifications issued in this regard intimating the pre-mature date of retirement of the above workmen is void in the eye of law.

Issue No. 3

Since the two workmen would have already retired from their services at the age of 60, had they been continued in their services as per their date of birth submitted by them during their initial engagement with the 1st party management, no order for their reinstatement in the management can be passed now. However, the 1st party management is hereby directed to adhere to the date of

birth as mentioned in their initial application by the disputant workers prior to its correction by the 1st party management and accordingly the 1st party management is directed to either cancel or issue necessary corrigendum against the notifications dated 06.05.2010 and 25.11.2010 issued it indicating their actual date of retirement instead of the premature date of superannuation. The 1st party management also further directed to pay the disputant workers their legitimate wages alongwith all consequential benefits from 01.09.2010 to Shri Chandramani Jena and from 01.02.2011 to Shri Narahari Behura till the date of their actual retirement taking into consideration the date of birth submitted by them in their application prior to its correction within a period of three months from the date of publication of this award in the Gazette of India failing which the 1st party management shall pay interest @ 12 percentum per annum simple interest till the disbursement of full and final payment.

The reference is answered accordingly in favour of the 2nd party workmen/union.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 13 मार्च, 2015

का.आ. 522.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चण्डीगढ़ के पंचाट (351/2014) प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं एल-12011/161/2000-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th March, 2015

S.O. 522.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. 351/2000**) of the Cent.Gov. Indus.Tribunal-cum-Labour Court No.-1 **Chandigarh** as shown in the Annexure, in the industrial dispute between the management of **Punjab & Sind Bank** and their workmen, received by the Central Government on 13/03/2015.

[No.L-12011/161/2000-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 351 of 2000. Reference No. L-12011/161/2000-1R(B-11) dated 15.09.2000.

Sh. Swarn Singh, R/o H.No. 4526. Ranjitpura, Post Office
Khalsa College, Amritsar.

Workman

Versus

1. The Dy. General Manager, Punjab & Sind Bank, Zonal
Office, Hall Bazar, Amritsar (Punjab)-143001.

Respondent

Appearances

For the Workman: Sh. R.P. Rana Advocate.

For the Management: Sh. J.S. Sathi Advocate.

Award Dated: 23.2.2015

Government of India Ministry of Labour *vide* notification
L-12011/161/2000-1R(B-II) dated 15.09.2000 has referred the
following dispute to this Tribunal for adjudication:

Term of Reference:

"Whether the action of the management of Punjab &
Sind Bank in awarding the punishment of reduction to
lower stage by reducing two increments in basic pay of
Sh. Swarn Singh, Special Assistant is legal and just? If
not, what relief the concerned workman is entitled to
and from what date?"

2. The workman filed claim statement pleading therein
that he was working as Special Assistant in the Khalsa
College Branch Amritsar when he was issued a show
cause notice dated 20.04.1993 wherein it was alleged that
while working in the aforesaid capacity he opened an SB
Account in the name of Sh. Kirpal Singh Sekhon under the
forged introduction of Sh. H.S. Soch, Principal of Khalsa
College, Amritsar. It was alleged by the management that
address given by the account holder was fake and workman
did not tally the signatures of Sh. H.S. Soch with those
available on the record of his SB account and acted in a
negligent manner and due to this negligence of workman a
fraud was committed by Kirpal Singh Sekhon, although no
particular of the alleged fraud was given in the show cause
notice. The workman filed reply to the show cause notice
admitting that a SB account was opened on 24.11.1992 in
the name of Kirpal Singh Sekhon but the same was opened
with the approval of the branch manager, who had in his
own handwriting put date on the opening account form in
token to give permission to the account. Subsequently
charge sheet dated 5.9.1994 was issued to the workman
containing the following charges:—

"1. That on 24.11.1992 a saving bank account No.11334/
38 was opened in the name of Mr. Kirpal Singh Sekhon
under forged introduction of Mr. H.S. Soch, Principal
Khalsa College Amritsar. The address given by the
account holder S. Kirpal Singh Sekhon was also fake.
The permission to open the SB account was not obtained
from the Branch Incharge.

2. That on the basis of said account in the name of
S. Kirpal Singh a further SB account No. 11338/38
in the name of Sh. Anand Kumar was opened on
26.11.1992. The account of Sh. Anand Kumar was
allowed to be opened on the verification of the
introduction of S. Kirpal Singh SB account holder
No.11334/38. Sh. Anand Kumar SB account holder
who had opened his SB account No.11338/38 with
the introduction of S. Kirpal Singh Sekhon had been
able to commit a fraud of Rs.36050/- on 28.11.1992.

3. That the said fraud committed by Sh. Anand Kumar
was a direct result of your negligence in not
verifying the signatures of the introducer on SB
account No. 11334/38.

Your above act is a gross misconduct as per para
19.5(j) of Bipartite settlement which may be read as
follows:—

Doing any act prejudicial to the interest of the bank
or gross negligence or negligence involving or
likely to involve the bank is a serious risk."

3. Workman filed reply to the charge sheet and denied
having committed any act of negligence. Inquiry officer
was appointed by the management who conducted the
inquiry in utter violation of the principle of natural justice.
No material witness was produced during the departmental
inquiry. The principle of Khalsa College was not produced
in support of the allegations, no handwriting expert was
examined. The management produced Sh. H.S. Brar who
himself was responsible for opening the SB account of Sh.
Kirpal Singh Sekhon. On the completion of the inquiry,
inquiry officer submitted his report. The workman submitted
a representation in which various submissions were made
but the disciplinary authority rejected all those submissions
and issued show cause notice dated 3.3.1997 proposing
the penalty of reduction to the lower stage by reducing
two increments. The disciplinary authority provided
personal hearing to the workman. The disciplinary
authority *vide* order dated 31.3.1997 passed the order of
penalty on the workman while disagreeing the inquiry report.
The workman filed appeal which was also rejected without
application of mind by the appellate authority. It is pleaded
by the workman that departmental inquiry was not held in
accordance with the principles of natural justice and the
workman was not provided reasonable opportunity to his
defence as most material witnesses were withheld by the
presenting officer and punishment imposed on the workman
which is harsh and disproportionate to the act of
misconduct as the branch manager was responsible for
opening the account whereas workman was held to be
responsible for negligence. It is prayed by the workman
that punishment may be set aside and his increments may
be restored from the date when it was due along with interest
@ 18% per annum.

4. The management filed written statement in which it is stated that the inquiry was conducted against the workman in adhering to the principles of natural justice and punishment was rightly awarded for the negligence of the workman in dealing with the bank business. The workman was supplied the copy of the inquiry report to which he filed the comments and after duly considering his representation the penalty of reduction to the lower stage by reducing two increments was imposed. Personal hearing was also provided to the workman by the disciplinary authority. The appeal filed by the workman to the appellate authority was also rejected after fully applying its mind and the workman is not entitled to any relief as the inquiry was conducted in accordance with the principle of natural justice and fair play. Every possible opportunity was given to the workman to prove his innocence. In the circumstances the management prayed that he reference may be rejected.

5. The workman filed replication reiterating the claim made in the claim statement. The workman also placed on record his affidavit along with the record of inquiry which includes reply to the show cause notice and other documents.

6. The management also filed supplementary written statement taking preliminary objection that in case this Hon'ble Court comes to the conclusion that domestic inquiry was not fair and proper for any reason whatsoever the management may be given opportunity to produced evidence on merits to prove charges before this Hon'ble Court. Management also placed on record affidavit of one Balkar Singh in support of the written statement. Management also placed on record the register of inquiry proceedings.

7. Earlier arguments were heard on the fairness of enquiry. This Tribunal *vide* its order dated 19.01.2015 held that the enquiry was conducted fairly and properly and there is no infirmity in the enquiry. The parties were given opportunity to adduce any evidence on the point of perversity and quantum of punishment.

8. Both the parties adduced no evidence and arguments heard of the parties on the point of perversity and quantum of punishment.

9. Learned counsel for the workman submitted that the management failed to prove the allegations as contained in the charge sheet in as much as the Principal of Khalsa College was not produced in support of the allegations and no handwriting expert was examined and the branch manager Shri H.S.Brar was produced who was himself responsible for opening of the SB account of Shri Kirpal Singh Sekhon. The charges were not proved during the enquiry and the findings of the enquiry officer are perverse. It is further the case of the workman is that the punishment is disproportionate to the alleged misconduct and the branch manager was also responsible for opening of the

account and the branch manager was allowed to go scot free whereas the workman was punished for no fault of the workman.

10. On the other hand the management submitted that it was the workman who opened the account of Shri Kirpal Singh Sekhon without verifying the address and signatures of the Principal of Khalsa College which resulted into fraud committed by Shri Kirpal Singh Sekhon. This act of negligence is of serious nature and the workman was given punishment which is not of severe nature and two increments were ordered to be stopped which is commensurate to the misconduct of the workman. It is also submitted that in appeal the punishment of stoppage of two increments were reduced to one increment. Therefore, the workman is not entitled to any relief and the reference deserves rejection.

11. The workman was charge sheeted for act of negligence in opening of the account in the name of Shri Kirpal Singh Sekhon with fake introduction and this fake account has become instrumental for fraud committed by one Anand Kumar who taken Rs. 36620/- from Branch Office Khalsa College Amritsar out of stolen pay order of Rs. 36240/- thereby causing a loss to the bank for Rs.36050/- and other expenses which is proved on record. I find no perversity in the enquiry report. More over the penalty of stoppage of two increments was reduced by the appellate authority to one increment in appeal filed by the workman. Therefore, no interference is warranted in the punishment also.

12. In view of the facts and circumstances of the case in hand, it is held that action of the management of Punjab & Sind Bank in awarding the punishment of reduction to lower stage by reducing one increment in basic pay of Sh. Swarn Singh, Special Assistant is legal and just and the workman not entitled to any relief.

13. The reference is answered accordingly. Central Govt. be informed. Soft as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
23.02.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 13 मार्च, 2015

का.आ. 523.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ सं. 51/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं० एल-12011/19/2014-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th March, 2015

S.O. 523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 51/2014) of the Cent.Gov.Indus.Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 13/03/2015.

[No.L-12011/19/2014-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA**

Reference No. 51 of 2014

Parties : Employers in relation to the management of
Bank of Maharashtra

AND

Their workmen.

Present: Justice Dipak Saha Ray,

....Presiding Officer

Appearance:

On behalf of the : None.
Management

On behalf of the : None.
Workmen

State: West Bengal. Industry: Banking

Dated: 19th February, 2015.

AWARD

By Order No.L-12011/19/2014-IR(B-11) dated 23.06.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

*"(1) Whether the action of the management of Bank of Maharashtra by not adopting 1:3 ratio as per MOS doted 27.1.2011 for calling candidates to fill up the vacancies of Special Assistant is legal and/or justified? What relief the workmen are entitled to?
(2) Whether the action of the management by discriminating against the member of the Union specially Shri Sanat Chattopadhyay and Sri Tamal Chatterjee in the matter of promotion to the post of Special Assistant and showing favoritism to a particular union is legal and justified? What relief the workmen are entitled to?"*

2. When the case is taken up for hearing today, none appears on behalf of either of the parties. It appears from the record that the union, at whose instance present reference has been initiated has not turned up since 13.11.2014 inspite of service of notice.

3. From the above facts and circumstances it may be presumed that the union is not willing to proceed with this case. So, no fruitful purpose will be served in keeping the matter pending.

4. in view of the above facts and circumstances present refer ence is disposed of by passing a "No Dispute Award".

Justice DIPAK SAHA RAY, Presiding Officer

Dated: Kolkata,

The 19th February, 2015

नई दिल्ली, 13 मार्च, 2015

का.आ. 524.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई-2 के पंचाट (संदर्भ सं. 46/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.03.2015 को प्राप्त हुआ था।

[सं एल-12011/20/2011-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th March, 2015

S.O. 524.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 46/2011) of the Cent.Gov.Indus.Tribunal-cum-Labour Court No.-2 Mumbai as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 13/03/2015.

[No.L-12011/20/2011-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2, MUMBAI**

PRESENT

K.B. KATAKE

Presiding Officer

REFERENCE NO. CGIT-2/46 of 2011

**EMPLOYERS IN RELATION TO THE
MANAGEMENT OF CENTRAL BANK OF INDIA**

The Assistant General Manager
Central Bank of India
Mumbai Metropolitan Zonal Office
346, Standard Building
Dr. D.N. Road
Fort
Mumbai-400 023.

AND

THEIR WORKMAN.

The General Secretary
Central Bank Karmachari Sena
Central Bank of India,
Mumbai Main Office, 2nd floor
M.G.Road,
Fort, Mumbai 400 023.

APPEARANCES:

FOR THE EMPLOYER : Mr. L.L. D'Souza,
Representative.

FOR THE WORKMAN : No appearance.
Mumbai, dated the
10th February, 2015.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/20/2011-IR (B-II), dated 18.08 2011 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the Assistant General Manager, Central Bank of India, Mumbai in imposing the punishment of bringing down to one stage lower for one year in the time scale of pay upon Shri Lallubhai S. Solanki, Daftary (Sub-Staff) vide order No. SMR/DAD.2009-10/1950 dated 21/10/2009 is legal, just and proper? What relief the workman concerned is entitled to?"

2. After receipt of the reference, notices were issued to both the parties. On 13/12/2011 concerned workman remained present but requested adjournment for filing statement of claim. Till date, neither second party union nor workman appeared in the proceeding or filed their statement of claim. Since nobody appeared on behalf of the union and filed statement of claim, it seems they are not interested in pursuing the matter further. Without statement of claim award cannot be passed on merits. Therefore I think it proper to dismiss the reference for want of prosecution. Thus I pass the following order:

ORDER

Reference stands dismissed for want of prosecution.
No order as to cost.

Date: 10.02.2015

K.B. KATAKE, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 525.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई नं०-1 के धनबाद के पंचाट (संदर्भ संख्या 7/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.03.2015 को प्राप्त हुआ था।

[सं० एल-20012/70/2013-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 525.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/2014) of the Cent.Gov.Indus.Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/S. BCCL and their workmen, received by the Central Government on 09/03/2015.

[No. L-20012/70/2013 -IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act.
1947.

Reference No. 7 of 2014

Employer in relation to the management of Lodna Area of
M/S BCCL

AND

Their workman.

Present:- Sri R.K. Saran,
Presiding Officer.

Appearances:

For the Employers : Sri Ganesh Prasad, Advocate
For the Workman : Sri R.R. Ram., Rep.

State:-Jharkhand

Industry :- Coal.
Dated: 07/01/2015

AWARD

By order No.-L-20012/70/2013 IR-(CM-I), dated. 01/01/2014, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Jairampur Colliery of M/s. BCCL in dismissing Sri Raghubir Yadav, Ex- M/Loader from the service of the company vide order dated 24.12.2003 is legal and justified? To what relief the workman concerned is entitled to ?"

2. The case is received from the Ministry of Labour on 16.01.2014. After receipt of reference, both parties are noticed, the sponsoring Union files their written statement on 27.05.2014. Thereafter the management also files written statement-cum- rejoinder on 04.09.2014. One evidence adduce by the workman as WW-1,

3. The point involved in the reference is that the workman has been dismissed from his services on the ground of absenteeism.

4. The workman examined in the case has stated , his absence was not due to any wrong intention but due to his ill health. The enquiry held as fair and proper.

5. During preliminary hearing it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for 11 years. It is felt to give another chance to the workman to serve.

6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee. But the workman be kept under probation for a period of two year. Therefore the question of back wages does not arise at all. This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 526.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय ईंसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 22/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9/3/2015 को प्राप्त हुआ था।

[सं० एल-20012/327/1991-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 526.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. No. 22/1993) of the **Central Government Industrial Tribunal-cum-Labour Court No. I, Dhanbad** as shown in the Annexure in the industrial dispute between the management of M/s. ECL and their workmen received by the Central Government on 09/03/2015.

[No. L-20012/327/1991-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD**

In the matter of reference U/S 10(1)(d) (2A) of I.D. Act. 1947

Ref. No. 22 of 1993.

Employer in relation to the management of Nirsa Area,
M/s. ECL,

AND

Their workmen.

Present : Shri Ranjan Kumar Saran,
Presiding Officer.

Appearances:

For the Employer : None

For the workman : None

State : Jharkhand

Industry:- Coal.

Dated 17/02/2015

AWARD

By Order No. L-20012/327/1991-IR (C-1), dated 05/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:—

SCHEDULE

"Whether the demand of the Bihar Colliery Kamgar Union for regularization of services of S/Shri Ajit Kumar Mondal and 16 others by the management of New Open Cast Project (Nirsa Colliery) of M/s. Eastern Coalfields Ltd., Nirsa Area is justified? If yes, to what relief the concerned workmen are entitled?"

Note:-List of workmen is not enclosed with order of reference.

2. After receipt of the reference the parties are noticed. Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 527.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय एअर इण्डिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 53/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं० एल-110012/5/2013-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 527.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the industrial dispute between the management of M/s. Air India Ltd. and their workmen received by the Central Government on 09/03/2015.

[No. L-11012/5/2013-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 3rd February, 2015

Present : K.P. Prasanna Kumari,
Presiding Officer

Industrial Dispute No. 53/2013

(In the matter of dispute for adjudication under clause (d) of Sub-Section (1) and Sub-Section 2(A) Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Air India Ltd., and their workman)

BETWEEN

The General Secretary : 1st Party/Petitioner Union
Air India Employees
Progressive Union No. 1
15th Street, Balaji Nagar,
Anakaputhur
Chennai-600070

AND

The Manager : 2nd Party/Respondent
Air India Ltd.
AUC Building,
Cantonment Pallavaram
Chennai-600043

Appearance:

For the 1st Party/Petitioner Union : M/s. S.

Gunaseelan,
Advocates

For the 2nd Party/Respondent : M/s. N.G.R. Prasad,
Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-11012/5/2013-IR(CM.I) dated 03.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:—

"Whether the action of the management of Air India Ltd., Chennai in not regularizing 95 casual employees who had put in more than 20 years of service is justified or not? To what relief the workman are entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 53/2013 and issued notice to both sides. Both sides have entered appearance through their counsel and have filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:—

The petitioner is a registered Trade Union affiliated to Labour Progressive Federation. The petitioner has been espousing the cause of workmen throughout India. The members of the Union are working with the Respondent from 1999 onwards as Baggage Loaders, Cargo Loaders, Motor Vehicles Drivers and Office Assistants. Most of them have been employed through the Employment Exchange. They are serving as Casual Labourers. They are not given any allowances or facilities available to the permanent workmen of the Respondent establishment. The workmen who joined the Respondent in 1999 were working in the Respondent establishment continuously. They were working without any break till the date of filing of the petition. They were employed in Flight Handling Unit for handling of baggage and cargo. The nature of work done by the workmen is permanent and perennial. An award may be passed holding that the demand of regularization raised by the workmen are justifiable and the Respondent shall be directed to act in terms of the demands.

4. The Respondent has filed Counter Statement contending as follows:—

The Petitioner Union has been recognized by the Respondent. A notification was forwarded to the Employment Exchange, Kanchipuram in 1999 requesting to sponsor candidates to create a pool of casual workers from which engagement can be made to cater to the operational requirement of the Respondent. It was clearly mentioned in the notification that the casual engagement will be for a period of 110 days only on rotational basis.

Once the first batch of contract workers complete their first spell another set from the pool will be offered engagement for a period of 110 days and the process was to continue. Accordingly, a few casuals from the list of candidates forwarded by the Employment Exchange were engaged initially for a period of 110 days. When they were about to complete their period they filed a batch of Writ Petitions before the Hon'ble High Court praying for regularization and obtained an interim Order on 27.09.1999 restraining the Respondent from recruiting a new set of persons in lieu of the Writ Petitioners so the second set of persons in the pool could not be offered engagement on casual daily rated basis. The engagement of the concerned workman after 27.09.1999 was pursuant to the Interim Order of the High Court of Madras. The Air India Employees guild also got impleaded in the Writ Petitions and requested to formulate a scheme for engagement of Casuals, giving a certain percentage to employee's relatives. The High Court passed an interim order dated 24.12.1999 providing for engagement of 101 casuals on rotation until disposal of the Writ Petitions. Ultimately the batch of Writ Petitions were dismissed on 31.08.2000. The Writ Appeal filed by the casual labourers has been later withdrawn. Pursuant to the policy decision of the Respondent handling of their flights have been entrusted to Air India Air Transport Services Ltd. Challenging this decision the casuals filed a fresh Writ Petition praying for permanent employment. This Writ Petition was dismissed as withdrawn by order dated 07.1.2007. Based on the interim order passed in the Writ Petition a contempt petition has been filed by the casual workers. This petition was also dismissed. Thus the demand of the casual workers for regularization has undergone judicial scrutiny before the High Court of Madras and therefore it is without any merit. For this reason itself the claim is to be rejected. There has been total freeze on recruitment in Air India from the month of June 1997. The concerned workmen are only in the pool of casuals. There was no sanctioned post against which they were employed. The Respondent is running in loss and the total accumulated loss is in the region of Rs. 30,000/- crores. Because of uncontrolled competition in Indian Civil Aviation, the two State Owned Airlines had been amalgamated as a single entity by name National Aviation Company of India Ltd. Even after the amalgamation the Respondent has been facing serious financial difficulties. The casuals are engaged only on day to day basis depending upon the requirement. The work generated is fluctuating and depends upon the frequency of the operations. In accordance with the policy of the Government of India the ground handling function has been hived off and entrusted to Air India Air Transport Services Ltd. Even the permanent employees who were carrying out ground handling functions have been deputed to Air India Air Transport Services. So there will not be any necessity for Air India to resort to casual labour engagement. The casual workers cannot claim back door entry into regular service.

They are not entitled to be absorbed or regularized on permanent posts. The claims is liable to be dismissed.

5. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext. W1 to Ext. W23 and Ext.M1 to Ext.26.

6. The points for consideration are:—

- (i) Whether the Respondent is liable to regularize the concerned casual workmen?
- (ii) To what relief, if any the workmen are entitled?

The Points

7. The Petitioner Union has raised dispute on behalf of a group of casual workmen employed by the Respondent. The Respondent has issued notification and forwarded it to the Employment Exchange requesting to sponsor candidates to create a pool casual labourers. According to the Respondent, the casual engagement was to be for a period of 110 days only on rotation basis. Once the first set of workers have completed the period of 110 days, the next set in the pool was to be engaged and so on. Even before the first set completed the period of 110 days they filed Writ Petitions before the High Court of Madras and obtained interim orders preventing the Respondent from engaging the next set. It is stated that other Writ Petitions also were filed in the matter and all these were dismissed. The stand of the Respondent is that since the issue has already undergone judicial scrutiny before the High Court of Madras itself the concerned workers are not entitled to agitate the matter before this Tribunal.

8. It could be seen that a batch of Writ Petitions including Writ Petition No. 15915/99 was filed against inducting the next batch of fresh casuals and an interim order dated 27.09.1999 had been obtained. On the basis of this order the concerned workmen continued to be in the service of the Respondent. Subsequently, Air India Employees Guild representing the casual workers who were engaged during the period of 1990-1998 also got impleaded in the Writ Petition. Another interim order was passed by the High Court providing for engagement of casuals on rotation till the disposal of the Writ Petitions. However, the batch of Writ Petitions have been dismissed by order dated 31.08.2000. The copy of this is marked as Ext. M22. Writ Appeals have been filed against the dismissal. As seen from Ex. M12 dated 14.11.2006 the Writ Appeals were dismissed as withdrawn with liberty to adopt appropriate proceedings, if need arises. Another Writ Petition has been filed by the workmen purportedly praying for permanent employment as per Writ Petition No. 13026/2006. This Writ Petition was dismissed as withdrawn by order dated 07.12.2007, the copy of which is marked as Ext.M15.

9. The argument that has been advanced on behalf of the Respondent is that in view of the above decisions by the High Court of Madras the petitioner is not entitled to

agitate the matter before this Tribunal again. The counsel has referred to the decision of the Apex Court in *SARGUJA TRANSPORT SERVICE Vs. STAE TRANSPORT APPELLATE TRIBUNAL* reported in 1987 1 SCC 5 in this respect. In the above decision referring to Order-XXIII, Rule-1 of the Civil Procedure Code the High Court has held that the principle underlying the rule is that when a plaintiff once institutes a suit in a Court and thereby avails of a remedy given to him under law he cannot be permitted to institute a fresh suit in respect of the same subject-matter again after abandoning the earlier suit or by withdrawing it without the permission of the Court to file a fresh suit. The High Court has further held that the principle underlying Rule-1 of Order XXIII of the Code should be extended in the interest of administration of justice to cases of withdrawal of writ Petition also not on the ground of res-judicate but on the ground of public policy. The argument advanced on behalf of the Respondent is that the Writ Appeals having been withdrawn the petitioner is not entitled to agitate the matter again. On going through Ext. M12 it could be seen that the appeals filed were against the dismissal of batch of Writ Petitions seeking to prevent the practice of employing persons such as petitioners for 90 days only. The Writ Appeals were dismissed as withdrawn with liberty to adopt appropriate proceedings. The subsequent Writ Petition has been dismissed on 07.12.2007 as withdrawn as seen from Ext. M15. This withdrawal is of course without my permission. The copy of the Writ Petition having not been produced the exact prayer in the Writ Petition is not known. But it could be seen from the order in the Writ Petition that the writ was filed praying to direct to the Respondents to dispose the representation of the petitioners in that Writ Petition. So it is clear that it was not a Writ Petition seeking regularization. So the withdrawal is of no consequence and will not affect the claim.

10. Now it is to be seen whether the workmen have got any case on merits. Admittedly, they were working as casual labourers only. The case of the Respondent is that these workmen were in the pool created by the Respondent and the intention was that they will be engaged in rotation for a period of 110 days. The order of appointment of any of the workmen is not produced. Ext.W1 is a personal interview letter sent by the Respondent to one of the concerned workmen. Ext.W1 will not show whether the engagement was to be restricted to a particular period. However, it is clear from the evidence of WW1, the General Secretary of the Petitioner Union that the prayer in the Writ Appeal filed by the concerned workmen was to issue direction to Air India not to indulge in the practice of employing workers for 90 days and ousting them later. Thus, it is clear that it was not a regular employment and was only for a specified period. In fact there is no dispute for the petitioner that the concerned workmen were engaged only as casuals.

11. As pointed out by the counsel for the Respondent, the concerned workmen were not employed in a sanctioned post. They were not recruited as per the Recruitment Rules also. The attempt of the Respondent was to create a pool of workers to be engaged as casuals for a particular period on rotation. There is no case for the petitioner that they were working in sanctioned post.

12. The concerned workmen were working in the Respondent establishment on the basis of interim order of Madras High Court, after 27.09.1999. Their engagement had started only after March 1999. So they have worked in the Respondent establishment based on the order of the Respondent only for a very limited period. Their service under the Respondent after 27.09.1999 until the Writ Petitions were dismissed was on the basis of the interim orders of the High Court.

13. The counsel for the Respondent has pointed out that in the above circumstances the concerned workmen are not entitled to regularization in service. The counsel has referred to the decision of the Apex Court in *STATE OF KARNAKATA AND OTHERS VS. M.L. KESARI AND OTHERS* reported in 2010 9SCC 247 in which the constitution bench decision of the Apex Court in *STATE OF KARNATAKA AND UMA DEVI* has been explained. In the Uma Devi case the Constitution Bench has held that appointments made without following the due process of the rules relating to appointment did not confer any right on the appointees and the Courts cannot direct their absorption, regularization or re-engagement nor make their service permanent. It is also held in the above case that a temporary, contractual, casual or daily wage employee does not have any legal right to be made permanent unless he has been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution. However, an exception was made to this position that in the case employees who have continued to work for 10 years or more without the intervention of the Courts or Tribunals, the question of regularization have to be considered on merits. The Apex Court had directed the Union and State Governments and their instrumentalities to take steps to regularize as a one-time measure the services of such irregularly appointed persons who had worked for 10 years or more in duly sanctioned posts but not under the cover of order of Courts or Tribunals. In the above referred case it was explained that even if an employer has not undertaken the exercise of regularization within 6 months of the decision in Uma Devi's case as directed by the Constitution Bench it will not disentitle the employees to be considered for regularization in terms of the direction Uma Devi's case as a one-time measure.

14. It is very much clear from the dictum laid down in Uma Devi's case and explained in the decision referred above that the period of 10 and more years of service of the concerned workmen should not have been with the aid of

the order of any Court or Tribunal if the person is to get the benefit of the exemption laid down in the case. In the present case the concerned workmen were not working in any sanctioned post. They were not recruited as per Recruitment Rules. But for the interim orders granted by the High Court they would not have continued to work for the Respondent beyond a period of 110 days. So the criteria laid down in Uma Devi's case is not met by the concerned workmen. So they are not entitled to regularization as claimed by them. They are not entitled to any relief.

15. In view of my discussion above, the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri P Raja
Petitioner Union
For the 2nd Party/ : MW1, Sri S. Iyyaswami
Management

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
Ex. W1	25.03.1999	Personal interview letter sent by the Respondent
Ex. W2	15.06.1999	Verification of character and antecedents sent by the District Collector, Kancheepuram to Respondent
Ex. W3	19.02.2007	Circular of the Respondent
Ex. W4	28.02.2008	Representation sent by the Petitioner's Union
Ex. W5	25.07.2008	Representation to the Respondent
Ex. W6	25.09.2008	Representation to the regularization
Ex. W7	08.10.2008	Representation to the Respondent
Ex. W8	13.10.2008	Letter from Respondent to Assistant Labour Commissioner (C), Chennai
Ex. W9	14.10.2011	Industrial Disputes raised before the Central Commissioner of Labour, Chennai
Ex. W10	01.12.2011	Letter from Ministry of Labour and Employment, Chennai

Ex. W11	01.02.2012	Letter from Respondent to Assistant Labour Commissioner (C)
Ex. W12	30.08.2012	Letter from Petitioner's Union to Mr. Siva, President of Public Sector
Ex. W13	15.10.2012	Letter from Conciliation Officer to Petitioner's Union
Ex. W14	22.10.2012	Letter from Provident Fund Organization
Ex. W15	06.02.2013	Strike notice from Petitioner's Union to Respondent
Ex. W16	11.02.2013	Letter from Deputy Chief Labour Commissioner, Chennai
Ex. W17	03.05.2013	Order
Ex. W18	From 1999 to 27.10.2014	Bank Statement regarding salary received from Management
Ex. W19	30.10.2011	Air India Winter Schedule EFF
Ex. W20	-	List of 72 permanent employees
Ex. W21	-	Air India, Chennai Ramp Assistance Allocation
Ex. W22	2008-2014	Salary slip list and vouchers
Ex. W23	-	Air India Union Members list

On the Management's side

Ex. No.	Date	Description
Ex. M1	23.05.1988	Award in ID No. 37 of 1987 - Industrial Tribunal, Alleppey
Ex. M2	07.04.1989	Order in OP No. 8218 of 1988
Ex. M3	05.07.1990	Order in WA No. 534 of 1980
Ex. M4	09.07.1997	Interim Order in WMP No. 16149/1997 in WP No. 10123/1997. High Court of Judicature at Madras
Ex. M5	19.11.1997	Order in WMP No. 16149/1997 in WP No. 10123/1997-High Court of Judicature at Madras
Ex. M6	27.09.1999	Order in WPMP No. 23004/1999 in WP No. 15916/1999
Ex. M7	24.11.1999	Order in WPMP No. 23004/1999 in WP No. 15916/1999
Ex. M8	09.12.1999	Memorandum of Interim Agreement entered into between Air India and Air India Employee's Guild

Ex. M9	13.10.2000	Memorandum of Interim Agreement entered into between Air India and Air India Employee's Guild
Ex. M10	31.01.2003	Order in WP No. 10123/199 in WMP No. 16149/1997 -High Court of Judicature at Madras.
Ex. M11	28.04.2006	Order in WPMP No. 14617/2006 in WP No. 13026/2006
Ex. M12	14.11.2006	Order in WANO. 600 of 2001 and batch cases
Ex. M13	22.03.2007	Award in ID No. 343/2014 - CGIT-cum-Labour Court, Chennai
Ex. M14	10.07.2007	Order in WANO. 399 of 2001 and batch cases
Ex. M15	07.12.2007	Order in WP No. 13026 of 2006
Ex. M16	04.12.2008	Award in ID No. 69/2006-CGIT-cum-Labour Court, Ernakulam
Ex. M17	24.06.2010	Order in WP No. 27944 to 2006
Ex. M18	14.09.2013	E-mail from Regional Manager, Ground Handling, together with the Trailing Mails from Emirates Airlines,
Ex. M19	18.02.2014	Order in SLP (Civil) No. 24630-24672 of 2007
Ex. M20	04.02.2014	Scheme framed by the Respondent
Ex. M21	23.06.1997	Office Memorandum of Ministry of Civil Aviation
Ex. M22	31.08.2000	Order in WP 15915 of 2000 and batch
Ex. M23	19.11.2007	Order in Cont. P. No. 959 of 2006
Ex. M24	07.12.2007	Order in WP No. 13026 of 2006
Ex. M25	08.05.2013	General Manager letter to the Executive Director
Ex. M26	06.01.2014	General Manager letter to the Executive Director

नई दिल्ली, 9 मार्च, 2015

का.आ. 528.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 16/1993) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं. एल-20012/352/1991-आईआर (सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 528.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/1993) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 09/03/2015.

[No. L-20012/352/1991-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act, 1947

Ref. No. 16 of 1993

Employer in relation to the management of Chapapur-II Colliery, M/s ECL

AND

Their workmen

Present: Sri Ranjan Kumar Saran,
Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate
For the workmen : None
State : Jharkhand

Industry: Coal.
Dated 16/2/2015

AWARD

By Order No. L-20012/352/1991-IR (C-I), dated 05/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bihar Colliery Kamgar Union for regularization of S/Shri Ganesh Kumar

Bishwakarma and 12 others by the management of Chapapur-II Colliery of M/s. E.C. Ltd. Nirsa Area is justified? If so, to what relief the concerned workmen are entitled?:

Note:- List of workmen is not enclosed with order of reference.

2. After receipt of the reference the parties are noticed, Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime, Hence No Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 529.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 35/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं. एल-20012/329/1991-आई.आर. (सी-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 529.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/1993) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 09/03/2015.

[No. L-20012/329/1991-IR (C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD.

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act,
1947

Ref. No. 35 of 1993

Employer in relation to the management of Badjana
Colliery, M/s. ECL,

AND

Their workmen

Present : Sri Ranjan Kumar Saran,
Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State: Jharkhand

Industry: Coal

Dated : 17/2/2015

AWARD

By Order No. L-20012/329/1991-IR (C-I), dated 04/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes of adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bihar Colliery Kamgar Union for regularization of S/Shri Nagen Bhandari and 7 others as clay cartridge Maker and payment as per category-1 Mazdoor is justified? If yes, to what relief the concerned workmen are entitled?"

Note:- List of workmen is not enclosed with order of reference.

2. After receipt of the reference the parties are noticed, Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime, Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 530.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 34/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2015 को प्राप्त हुआ था।

[सं. एल-20012/380/1991-आईआर (सी-I)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 530.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/1993) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between

the management of M/s. ECL and their workmen, received by the Central Government on 09/03/2015.

[No. L-20012/380/1991-IR (C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of reference U/s 10(1)(d)(2A) of I.D. Act.
1947

Ref. No. 34 of 1993

Employer in relation to the management of Kapasara
Colliery, M/s. ECL,

AND

Their workmen

Present : Sri Ranjan Kumar Saran,
Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State: Jharkhand

Industry : Coal
Dated 16.2.2015

AWARD

By Order No. L-20012/380/1991-IR(C-I), dated 04/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section(1) and Sub-Section (ZA) of Section 10 of the Industrial Disputes Act, 1947, Referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bihar Colliery Kamgar Union for regularization of Shri Balram Lohar and 26 others as Blacksmith by the management of Kapasara Colliery, Kapasara Area of M/s. Eastern Coalfields Ltd. is justified? If Yes, to what relief the concerned workmen are entitled?"

Note:—List of workmen is not enclosed with order of reference.

2. After receipt of the reference the parties are noticed, though they took steps for certain date, subsequently did not appears not take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 531.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (123/1992) प्रकाशित करती है जो केन्द्रीय सरकार को 09.03.2015 को प्राप्त हुआ था।

[सं० एल - 20012/288/1991-आई आर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th March 2015

S.O. 531.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 123/1992) of the Cent. Govt. Indus. Tribunal - cum - Labour Court No-1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 09/03/2015.

[No. L-20012/288/1991 - IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of reference U/s 10(1)(d)(2A) of I.D. Act.
1947

Ref. No. 123 of 1992

Employer in relation to the management of Moonidih
Project, M/s. BCCL,

AND

Their workmen

Present: Sri Ranjan Kumar Saran,
Presiding Officer.

Appearances:

For the Employers : Sri D.K. Verma, Advocate

For the workman : None

State: Jharkhand

Industry: Coal
Dated 5.1.2015

AWARD

By Order No. L-20012/288/1991-IR(IC-I), dated 18/09/1992, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Moonidih Project of M/s. BCCL, P.O.—Moonidih, Distt-Dhanbad in not regularizing Shri Paresh Chandra Bauri in clerical Grade-3 w.e.f. 1.9.87 is justified. If not, to what relief the concerned workman is entitled?"

2. After receipt of the reference, parties are noticed, though they took steps for certain dates by the workman, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 532.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीएमपीडीआईएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 107/1992) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.03.2015 को प्राप्त हुआ था।

[सं० एल - 20012/201/1991-आई आर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2015

S.O. 532.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 107/92) of the Cent. Govt. Indus. Tribunal - cum - Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. CMPDIL and their workmen, received by the Central Government on 09/03/2015.

[No. L-20012/201/1992 - IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of reference U/s 10(1)(d)(2A) of
I.D. Act, 1947

Ref. No. 107 of 1992

Employer in relation to the management of CMPDIL,
Ranchi

AND

Their workmen

Present: Sri Ranjan Kumar Saran,
Presiding Officer.

Appearances:

For the Employers : Sri B.K. Sinha, Manager (P)/Admin

For the workman : None

State: Jharkhand

Industry: Coal

Dated 8.1.2015

AWARD

By Order No. L-20012/301/1992-IR(C-I), dated 25/09/1992, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s. Central Mine Planning & Design Institute Ltd. Ranchi is justified in terminating the service of workman Shri Mumtaz Alam w.e.f. 1.1.86. If not what relief the workman is entitled and from what date?"

2. After receipt of the reference, parties are noticed, though they took steps for certain dates by the workman, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 9 मार्च, 2015

का.आ. 533.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 188/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.03.2015 को प्राप्त हुआ था।

एम० के० सिंह, अनुभाग अधिकारी

[सं० एल - 20012/64/2000-आई आर (सी-I)]

New Delhi, the 9th March, 2015

S.O. 533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. No. 188/2000) of the Cent. Govt. Indus. Tribunal - cum - Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s.BCCL and their workmen, received by the Central Government on 09/03/2015.

[No.-L-20012/64/2000 - IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, DHANBAD**

In the matter of reference U/s 10(1)(d)(2A) of I.D. Act.
1947

Ref. No. 188 of 2000

Employer in relation to the management of P.B. Area M/s.
BCCL

AND

Their workmen

Present : Sri Ranjan Kumar Saran,
Presiding Officer.

Appearances:

For the Employers : Sri S. N. Ghosh, Advocate

For the workman : Sri C. Prasad, Advoacte

State: Jharkhand

Industry: Coal

Dated 5.1.2015

AWARD

By Order No. L-20012/64/2000-IR(C-I), dated 29/07/2000, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the refusal of the management to regularize Sri Pakir Chand Mahto as Loading Clerk is proper and justified? If not, to what relief is the workman entitled and from what date."

2. After receipt of the reference, parties are noticed, though they took steps for certain dates. But after that the Sponsoring Union is not taking any interest in the case. Ld counsel for the workman is also submits that the workman is not taking any interest. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer